TEXAS

Legal Documents
To Assure Future Health Care Choices

ADVANCE DIRECTIVES

YOUR RIGHT TO MAKE HEALTH CARE DECISIONS UNDER THE LAW IN TEXAS

INTRODUCTION

Texas and federal law give every competent adult, 18 years or older, the right to make their own health care decisions, including the right to decide what medical care or treatment to accept, reject or discontinue. If you do not want to receive certain types of treatment or you wish to name someone to make health care decisions for you, you have the right to make these desires known to your doctor, hospital or other health care providers, and in general, have these rights respected. You also have the right to be told about the nature of your illness in terms that you can understand, the general nature of these proposed treatments, the risks of failing to undergo these treatments and any alternative treatments or procedures that may be available to you.

However, there may be times when you cannot make your wishes known to your doctor or other health care providers. For example, if you were taken to a hospital in a coma, would you want the hospital's medical staff to know what your specific wishes are about the medical care that you want or do not want to receive.

This booklet describes what Texas and federal law have to say about your rights to inform your health care providers about medical care and treatment you want or do not want, and about your right to select another person to make these decisions for you, if you are physically or mentally unable to make them yourself.

To make these difficult issues easier to understand, we have presented the information in the form of questions and answers. Because this is an important matter, we urge you to talk to your spouse, family, close friends, personal advisor, your doctor and your attorney before deciding whether or not you want an advance directive.

QUESTIONS AND ANSWERS

GENERAL INFORMATION ABOUT ADVANCE DIRECTIVES

What are "Advance Directives"?

Advance directives are documents which state your choices about medical treatment or name someone to make decisions about your medical treatment, if you are unable to make these decisions or choices yourself. They are called "advance" directives, because they are signed in advance to let your doctor and other health care providers know your wishes concerning medical treatment.Through advance directives, you can make legally valid decisions about your future medical care.

Texas law recognizes 4 types of advance directives:

1) A Directive to Physicians and Family or Surrogates (Living Will).

2) A Medical Power of Attorney.

3) A Mental Health Treatment Declaration.

4) An Out-of-Hospital Do Not Resuscitate Order.

Do I have to have an Advance Directive?

No. It is entirely up to you whether you want to prepare any documents. But if questions arise about the kind of medical treatment that you want or do not want, advance directives may help to solve these important issues. Your doctor or any health care provider cannot require you to have an advance directive in order to receive care; nor can they prohibit you from having an advance directive. Moreover, under Texas law, no health care provider or insurer can charge a different fee or rate depending on whether or not you have executed an advance directive.

What will happen if I do not make an Advance Directive?

You will receive medical care even if you do not have any advance directives. However, there is a greater chance that you will receive more treatment or more procedures than you may want.

If you cannot speak for yourself and you do not have an advance directive, your doctor or other health care provider will look to the following people in the order listed for decisions about your care: 1) Your guardian, if a court has appointed one, who is authorized to make health care decisions for you; 2) Your spouse; 3) An adult child, or if you have more than one adult child, a majority of those children who are reasonably available for consultation; 4) Your parents; 5) Your nearest living relative.

How do I know what treatment I want?

Your doctor must inform you about your medical condition and what the different treatments can do for you. Many treatments have serious side effects. Your doctor must give you information, in language that you can understand, about serious problems that medical treatment is likely to cause. Often, more than one treatment might help you and different people might have different ideas on which one is best. Your doctor can tell you the treatments that are available to you, but he or she cannot choose for you. That choice depends on what is important to you.

Whom should I talk to about Advance Directives?

Before writing down your instructions, you should talk to those people closest to you and who are concerned about your care and feelings. Discuss them with your family, your doctor, friends and other appropriate people, such as a member of your clergy or your lawyer. These are the people who will be involved with your health care if you are unable to make your own decisions.

When do Advance Directives go into effect?

It is important to remember that these directives only take effect when you can

no longer make your own health care decisions. As long as you are able to give "informed consent," your health care providers will rely on **YOU** and **NOT** on your advance directives.

What is "Informed Consent"?

Informed consent means that you are able to understand the nature, extent and probable consequences of the proposed medical treatments and are able to make rational evaluations of the risks and benefits of those treatments as compared with the risks and benefits of alternate procedures **AND** you are able to communicate that understanding in any way.

How will health care providers know if I have any Advance Directives?

All hospitals, nursing homes, home health agencies, HMO's and all other health care facilities that accept federal funds must ask if you have an advance directive, and if so, they must see that it is made part of your medical records.

Will my Advance Directives be followed?

Generally, yes, if they comply with Texas law. Federal law requires your health care providers to give you their written policies concerning advance directives. A summary statement of those policies is provided for you at the back of this book. It may happen that your doctor or other health care provider cannot or will not follow your advance directives for moral, religious or professional reasons, even though they comply with Texas law. If this happens, they must immediately tell you. Then they must help you transfer to another doctor or facility that will do what you want.

Can I change my mind after I write an Advance Directive?

Yes. At any time, you can cancel or change any advance directive that you have written. To cancel your directive, simply destroy the original document and tell your family, friends, doctor and anyone else who has copies that you have cancelled them. To change your advance directives, simply write and date a new one. Again, give copies of your documents to all the appropriate parties, including your doctor.

Do I need a lawyer to help me make an Advance Directive?

A lawyer may be helpful and you might choose to discuss these matters with him or her, but there is no legal requirement in Texas to do so. You may use the forms that are provided in this booklet to execute your advance directives.

Will my Texas Advance Directive be valid in another state?

The laws on advance directives differ from state to state, so it is unclear whether a Texas advance directive will be valid in another state. Because an advance directive is a clear expression of your wishes about medical care, it will influence that care no matter where you are admitted. However, if you plan to spend a great deal of time in another state, you might want to consider signing an advance directive that meets all the legal requirements of that state.

Will an Advance Directive from another state be valid in Texas?

Yes. An advance directive executed in compliance with another state's laws will be valid in Texas to the extent permitted by Texas law.

What should I do with my Advance Directives?

You should keep them in a safe place where your family members can get to them. Do **NOT** keep the original copies in your safe deposit box. Give copies of these documents to as many of the following people as you are comfortable with: your spouse and other family members; your doctor; your lawyer; your clergyperson; and any local hospital or nursing home where you may be residing. Another idea is to keep a small wallet card in your purse or wallet which states that you have an advance directive and who should be contacted.

DIRECTIVE TO PHYSICIANS AND FAMILY OR SURROGATES (LIVING WILL)

What is a "Living Will"?

A living will (officially called a "Directive to Physicians and Family or Surrogates" in Texas) is a document that tells your doctor or other health care providers whether or not you want life-sustaining treatments or procedures administered to you if you are in a terminal condition or in an irreversible condition. It is called a "living will" because it takes effect while you are still living.

Is a "Living Will" the same as a "Will" or "Living Trust"?

No. Wills and living trusts are financial documents which allow you to plan for the distribution of your financial assets and property after your death. A living will only deals with medical issues while you are still living. Wills and living trusts are complex legal documents and you usually need legal advice to execute them. You do not need a lawyer to complete your Texas living will.

When does a Texas Living Will go into effect?

A living will goes into effect when: 1) your doctor has a copy of it, and 2) your doctor has concluded that you are no longer able to make your own health care decisions, and 3) your doctor has determined that you are terminally ill or in an irreversible condition.

What are "life-sustaining" treatments?

These are treatments or procedures that are not expected to cure your terminal condition or make you better. They only prolong dying. Examples are mechanical respirators which help you breathe, kidney dialysis which clears your body of wastes, and cardiopulmonary resuscitation (CPR) which restores your heartbeat.

What is a "terminal" condition?

A terminal condition is defined as an incurable condition for which administration of medical treatment will only prolong the dying process and without administration of these treatments or procedures, death will occur within 6 months.

What is an "irreversible" condition?

An irreversible condition means a condition, illness or injury that 1) may be treated but is never cured; 2) leaves a person unable to care for himself or herself or make decisions for himself or herself; and 3) without life-sustaining treatment is fatal.

Is a Living Will the same as a "Do Not Resuscitate (DNR)" order?

No. A Texas living will covers almost all types of life-sustaining treatments and procedures. A "Do Not Resuscitate" order covers only two types of life-threatening situations. A DNR order is a document prepared by your doctor at your direction and placed in your medical records. It states that if you suffer cardiac arrest (your heart stops beating) or respiratory arrest (you stop breathing), your health care providers are not to try to revive you by any means.

Will I receive medication for pain?

Unless you state otherwise in the living will, medication for pain will be provided where appropriate to make you comfortable and will not be discontinued.

Does a Texas Living Will apply if a woman is pregnant?

Texas law is very specific on this subject. The provisions of the living will cannot go into effect if a woman is pregnant.

Can my doctor be sued or prosecuted for carrying out the provisions of a Texas Living Will?

No. Texas law states that no physician or any person acting under the direction of a physician or a health care facility can be held civilly or criminally liable for carrying out the provisions of a valid Texas living will.

Does a Texas Living Will affect insurance?

No. The making of a living will, in accordance with Texas law, shall not affect the sale or issuance of any life insurance policy, nor shall it invalidate or change the terms of any insurance policy. In addition, the removal of life-support systems according to Texas law, shall not, for any purpose, constitute suicide, homicide or euthanasia, nor shall it be deemed the cause of death for the purposes of insurance coverage.

Does a Texas Living Will have to be signed and witnessed?

Yes. You must sign (or have someone sign the document in your presence and at your direction, if you are unable to sign) and date the living will. Then it must be witnessed by 2 competent adult people or notarized. Effective January 1, 2010, you, your witnesses, and your notary may use digital or electronic signatures.

If the document is witnessed, at least 1 of the 2 witnesses **CANNOT** be:

1) Anyone you have designated to make a health care or treatment decision for you; 2) Anyone related to you by blood or marriage; 3) Anyone entitled to any part of your estate upon your death; 4) Your attending physician or an employee of your attending physician; 5) An employee of a health care facility in which you

are a patient if that employee is providing you with direct patient care; 6) An officer, director, partner, or business office employee of a health care facility in which you are a patient; or 7) Any person who has a claim against any part of your estate.

MEDICAL POWER OF ATTORNEY

What is a Medical Power of Attorney (MPOA)?

A MPOA is a legal document which allows you (the "principal") to appoint another person (the "attorney-in-fact" or "agent") to make medical decisions for you if you should become temporarily or permanently unable to make those decisions yourself. The person that you choose as your attorney-in-fact does not have to be a lawyer.

Who can I select to be my Agent?

You can appoint almost any adult to be your agent. You should select a person(s) knowledgeable about your wishes, values, religious beliefs, in whom you have trust and confidence and who knows how you feel about health care. You should discuss the matter with the person(s) you have chosen and make sure that they understand and agree to accept the responsibility.

You can select a member of your family, such as your spouse, child, brother or sister, or a close friend. If you select your spouse and then become divorced, the appointment of your spouse as your agent is revoked.

The following people **CANNOT** be appointed as your agent: 1) Your treating health care provider; 2) An employee of your treating health care provider, unless he or she is related to you; 3) Your residential care provider; or 4) An employee of your residential care provider, unless he or she is related to you.

When does the MPOA take effect?

The MPOA only becomes effective when you are temporarily or permanently unable to make your own health care decisions and your agent consents to start making those decisions. Your agent will begin making decisions after your doctors have decided that you are no longer able to make them. Remember, as long as you are able to make treatment decisions, you have the right to do so.

What decisions can my Agent make?

Unless you limit his or her authority in the MPOA, your agent will be able to make almost every treatment decision in accordance with accepted medical practice that you could make, if you were able to do so. If your wishes are not known or cannot be determined, your agent has the duty to act in your best interest in the performance of his or her duties. These decisions can include authorizing, refusing or withdrawing treatment, even if it means that you will die. As you can see, the appointment of an agent is a very serious decision on your part.

Are there any decisions my Agent cannot make?

Yes. Texas law prohibits your agent from consenting to: 1) Voluntary inpatient mental health services; 2) Convulsive treatment; 3) Psychosurgery; 4) Abortion; or 5) Omitting care intended primarily for your comfort.

Can there be more than one Agent?

Yes. While you are not required to do so, you may designate alternates who may also act for you, if your primary agent is unavailable, unable or unwilling to act. Your alternates have the same decision-making powers as the primary agent.

Can I appoint more than one person to share the responsibility of being my Agent?

You should appoint only **ONE** person to be your primary agent. Any others that you want to be involved with your health care decisions should be appointed as your alternates. If two or more people are given equal authority and they disagree on a health care decision, one of the most important purposes of the MPOA--to clearly identify who has the authority to speak for you--will be defeated. If you are afraid of offending people close to you by choosing one over another to be your agent, ask them to decide among themselves who will be your primary agent and select the others as alternates.

Can my Agent be legally liable for decisions made on my behalf?

No. Your health care agent or your alternate agents cannot be held liable for treatment decisions made in good faith or for costs incurred for your care.

Does the MPOA have to be signed and witnessed?

Yes. You must sign (or have someone sign the document in your presence and at your direction, if you are unable to sign) and date the MPOA. Then it must be witnessed by 2 competent adult people or notarized. Effective January 1, 2010, you, your witnesses, and your notary may use digital or electronic signatures. If the document is witnessed, at least 1 of the 2 witnesses **CANNOT** be:

1) Anyone you have designated to make a health care or treatment decision for you; 2) Anyone related to you by blood or marriage; 3) Anyone entitled to any part of your estate upon your death; 4) Your attending physician or an employee of your attending physician; 5) An employee of a health care facility in which you are a patient if that employee is providing you with direct patient care; 6) An officer, director, partner, or business office employee of a health care facility in which you are a patient; or 7) Any person who has a claim against any part of your estate.

In addition, Texas law requires that a "Disclosure Statement" accompany the MPOA and that you sign a statement that you have read and understood its contents. This "Disclosure Statement" is provided to you at the beginning of the MPOA in this booklet, and a signature and date line have been provided for you at the end of the statement to comply with this portion of Texas law.

MENTAL HEALTH TREATMENT DECLARATION

What is a Mental Health Treatment Declaration (MHTD)?

A MHTD is a legal document which allows you to tell your doctor and other health care providers about your preferences and instructions regarding your mental health care treatment, if you are no longer able to make these decisions yourself.

What is "Mental Health Treatment"?

Mental health treatment is defined by Texas law to include, among others:

1) Electroconvulsive or other convulsive treatment (Examples might include electroshock therapy or drugs which can produce convulsions); 2) Psychoactive drugs (drugs which work on your central nervous system); and 3) Emergency mental health treatment (Examples might include drugs to control delusions or hallucinations, treatment for reducing the threat of an individual doing harm to himself or herself or others, and emergency treatment for alcohol or drug abuse).

When does the MHTD go into effect?

A MHTD goes into effect when a Texas court determines that you no longer understand the nature and consequences of proposed mental health treatment and that you lack the ability to make decisions concerning this treatment.

Does the MHTD have an expiration date?

Yes. Unlike the living will and medical power of attorney which do not expire, the MHTD expires 3 years from the date that you sign it. If you are incapacitated on that date, the document continues in effect until you are again able to make your own decisions.

Where can I get the MHTD form?

Because of space limitations, the MHTD form suggested by Texas law has not been provided in this booklet. You can purchase the suggested document by visiting our website at www.advdir.com and the document will be mailed to you.

OUT-OF-HOSPITAL DNR ORDER

What is an Out-of-Hospital DNR order (OHDNR)?

An OHDNR is a document prepared by you and your attending physician that tells medical personnel in an "out-of-hospital setting" that if you suffer cardiac arrest (your heart stops beating) or respiratory arrest (you stop breathing), they are not to try to revive you by any means.

What is an "Out-of-Hospital Setting"?

An out-of-hospital setting is any setting outside a hospital in which health care professionals are called for assistance. Among these settings are: 1) Home Health; 2) Hospice; 3) Nursing Homes; 4) Ambulances; and 5) Hospital emergency rooms.

Where can I get more information and the correct document?

Information for obtaining the document and a special bracelet can be obtained from:

Texas State Department of Health (512-834-6700)

or

Texas Medical Association (512-370-1306)

TEXAS 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 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 or treatment 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 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:

_____ 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)

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:

_____ 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 artificially administered nutrition and hydration, intravenous antibiotics, 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 health care or 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.)

If the above persons are not available, or if I have not designated a spokesperson, I understand that a 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.

DECLARANT SIGNATURE

Signed : _____ Date: _____

City, County, State of Residence: _____

WITNESS SIGNATURES

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 health care or 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 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: _____

-OR-
NOTARY

(You may sign this document before a notary public instead of having it witnessed above)

STATE OF TEXAS)
) ss.
COUNTY OF_____)

Before me, the undersigned authority, came the principal who is of sound mind and eighteen (18) years of age, or older, and acknowledged that he voluntarily dated and signed this writing or directed it to be dated and signed as above.

Done this _____ day of _____, 20_____.

Signature of Notary Public: _____

Date commission expires: _____

DEFINITIONS

"Artificially administered 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 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 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 artificially administered 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.

TEXAS MEDICAL POWER OF ATTORNEY

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 for 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 your 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:

1) **YOU SIGN IT AND HAVE YOUR SIGNATURE ACKNOWLEDGED BEFORE A NOTARY PUBLIC; OR**
2) **YOU SIGN IT 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 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.

DESIGNATION OF HEALTH CARE AGENT

I, _____(insert your name) appoint:

Name _____

Address _____

City, State, Zip Code _____

Telephone _____ 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 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

_____
Address Telephone

B. Second Alternate Agent

_____
Name

_____
Address Telephone

LOCATION OF DOCUMENT

The original of this document is kept at:_____

The following individuals or institutions have signed copies:

_____
Name Address Telephone

_____
Name Address Telephone

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: _____

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.

PRINCIPAL SIGNATURE

(You must date and sign this power of attorney. You may sign it and have your signature acknowledged before a notary public or you may sign it in the presence of two competent adult witnesses.)

I sign my name to this medical power of attorney on this _____ day of _____, 20_____, at (City and State) _____

_____ _____

(Signature) (Print Name)

_____ _____

(Address) (Date of Birth)

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: _____

- OR -

NOTARY

(You may sign this document before a notary public instead of having it witnessed above)

STATE OF TEXAS)
) ss.
COUNTY OF _____)

Before me, the undersigned authority, came the principal who is of sound mind and eighteen (18) years of age, or older, and acknowledged that he voluntarily dated and signed this writing or directed it to be dated and signed as above.

Done this _____ day of _____, 20_____.

Signature of Notary Public: _____

Date commission expires: _____

A SUMMARY STATEMENT OF HEALTH CARE POLICIES REGARDING PATIENTS' RIGHTS OF SELF-DETERMINATION

(Since a summary like this cannot answer all possible questions or cover every circumstance, you should discuss any remaining questions with a representative of this health care facility.)

1. Prior to the start of any procedure or treatment, the physician shall provide the patient with whatever information is necessary for the patient to make an informed judgment about whether the patient does or does not want the procedure or treatment performed. Except in an emergency, the information provided to the patient to obtain the patient's consent shall include, but not necessarily be limited to, the intended procedure or treatment, the potential risks, and the probable length of disability. Whenever significant alternatives of care or treatment exist, or when the patient requests information concerning alternatives, the patient shall be given such information. The patient shall have the right to know the person responsible for all procedures and treatments.

2. The patient may refuse medical treatment to the extent permitted by law. If the patient refuses treatment, the patient will be informed of significant medical consequences that may result from such action.

3. The patient will receive written information concerning his or her individual rights under Texas state law to make decisions concerning medical care.

4. The patient will be given information and the opportunity to make advance directives--including, but not limited to a Texas Directive to Physicians and Family or Surrogates, a Medical Power of Attorney, a Mental Health Treatment Declaration, and/or an Out-of-Hospital Do Not Resuscitate Order.

5. The patient shall receive care regardless of whether or not the patient has or has not made an advance directive.

6. The patient shall have his or her advance directive(s), if any has been created, made a part of his or her permanent medical record.

7. The patient shall have all of the terms of his or her advance directive(s) complied with by the health care facility and caregivers to the extent required or allowed by Texas law.

8. The patient shall be transferred to another doctor or health care facility if his or her doctor(s), or agent of his or her doctor(s), or the health care facility cannot respect the patient's advance directive requests as a matter of "conscience".

9. The patient shall receive the name, phone number and address of the appropriate state agency responsible for receiving questions and complaints about these advance directive policies.

WALLET CARDS FOR TEXAS ADVANCE DIRECTIVES

Complete and cut out the cards below. Put the cards in the wallet or purse you carry most often, along with your driver's license or health insurance card. **NOTE: Please be sure to make a copy of page 3 of 3 (the reverse of this one) before cutting these wallet cards or you will be cutting out part of the last page of the Texas Medical Power of Attorney document.**

ATTN: TEXAS HEALTH CARE PROVIDERS

_____
(Your Name)

I have created the following **Advance Directives**:
(Check one or more, as appropriate)

_____ **Directive to Physicians**
_____ **Medical Power of Attorney**
_____ **Mental Health Treatment Declaration**
_____ **Out-of-Hospital DNR**

Please contact _____
(Name)
and _____ for more information.
(Telephone)

ATTN: TEXAS HEALTH CARE PROVIDERS

_____
(Your Name)

I have created the following **Advance Directives**:
(Check one or more, as appropriate)

_____ **Directive to Physicians**
_____ **Medical Power of Attorney**
_____ **Mental Health Treatment Declaration**
_____ **Out-of-Hospital DNR**

Please contact _____
(Name)
and _____ for more information.
(Telephone)

INDIVIDUALS AND ORGANIZATIONS MAY OBTAIN ADDITIONAL COPIES OF THIS BOOKLET BY VISITING OUR WEBSITE AT: WWW.ADVDIR.COM

TEXAS MEDICAL ORDERS FOR SCOPE OF TREATMENT (MOST) [TXMOSTCoalition2-26-16]

First Name:	Last Name:
Date of Birth:	Date Form Prepared:

Follow this MOST and patient preferences first, then contact a physician. **Any section not completed implies full treatment for that section and does not invalidate the form.** Send this MOST with the patient for all transfers between treatment sites. Comfort care and dignity will be provided to all patients.

A Check ONLY one

PHYSICIAN RESUSCITATION ORDER: If patient does not have a pulse and is not breathing:

☐ **Attempt Resuscitation (CPR)** Place tube in the windpipe, electrical shocks to the chest, chest compression, and IV tubes for fluids/medications.

☐ **Do Not Attempt Resuscitation/Allow Natural death (DNAR/AND**) Provide physical comfort, emotional, and respectful spiritual support to patient and family. ☐**Out-Of-Hospital-Do-Not-Resuscitate Form completed**

If patient is not in cardiopulmonary arrest, follow orders found in Sections **B** and **C**

B Check ONLY one

MEDICAL INTERVENTION SCOPE: If patient is unstable, has pulse and is breathing:

☐ **FULL INTERVENTIONS:** Transfer to a hospital, and if necessary to ICU. Use comfort and selective measures, and may add medically appropriate ICU interventions like, but not limited to, intubation/ventilator support, ICU-only medications, and dialysis.

☐ **SELECTIVE INTERVENTIONS:** If necessary, transfer to a hospital. In addition to comfort measures, may add interventions like intravenous antibiotics, non-invasive breathing support (BiPAP/CPAP), and fluid resuscitation.

☐ **COMFORT INTERVENTIONS ONLY:** Avoid hospitalization unless needed to provide comfort care. Focus on symptom control, dignity, and allowing gentle, natural death should it occur. Use comfort interventions like oral, subcutaneous, or intravenous medications (e.g., opioids), comfort foods/liquids, oxygen, and emotional/spiritual support.

ADDITIONAL ORDERS:_____

C Check ONLY one

MEDICALLY ASSISTED NUTRITION/HYDRATION

Offer nutrition and hydration by mouth at all intervention levels if feasible.

☐ **No medically assisted nutrition.**

☐ **Unless medically contra-indicated*, defined trial of medically assisted nutrition.**

Length of trial _____ Goal _____

☐ **Long-term medically assisted nutrition.**

*In some circumstances including, but not limited to, heart, lung, liver or kidney failure, assisted nutrition or hydration may increase suffering or hasten death, and is therefore medically contraindicated.

D

DOCUMENTATION OF DISCUSSION AND SIGNATURES:

Discussed with:	**Rationale for these orders:** (Choose all that apply)
□ Patient (Patient has capacity)	□ Living Will (Directive to Physicians and Family or Surrogates)
□ Health Care Agent or Decision Maker: _____ (Relationship, Name)	□ Medical Power of Attorney
□ Court Appointed Guardian	□ Other: _____
□ Others in Attendance: _____ (Relationship, Name)	

Physician Signature: My signature certifies both the order and preferences above and the basis for them.

X **Physician Signature:**	**Print Physician Name:**	**Date:**	**Phone Number:**

Patient or Patient's Surrogate Signature:

X **Patient or Surrogate Signature:**	**Print Patient or Surrogate's Name, if signing:**	**Date:**	**Phone Number:**

SEND FORM WITH PATIENT WHENEVER TRANSFERRED OR DISCHARGED

Organization or Facility Identifier:	

Patient Last Name:	First Name:	DOB:	
Facilitator Information: If someone other than patient's physician is facilitating this conversation:			
Facilitator Last Name:	Facilitator First Name:	Credentials:	Phone Number:

Instructions for MOST Form

What is MOST?
MOST stands for Medical Orders for Scope of Treatment. It is a physician order set and care planning tool based upon patient treatment preferences that travels with the patient from one site of treatment to another.

Intent or Purpose of MOST: The MOST form is intended to promote patient centered health care and improve communication about that health care between hospitals, nursing facilities and other sites of care. The order and treatment preferences should be based upon:

- The patient's medical condition as determined by a physician; and
- The patient's preferences as directly expressed by the patient, the Living Will, or by the patient's surrogate (patient representative) if the patient can't communicate and lacks a Living Will.

Section A: Translates patient preferences regarding resuscitation into a physician order. It applies when a patient does not have a pulse and is not breathing. If a patient is not in cardiopulmonary arrest, then go to Sections B, C, D. At all times, health care professionals should remember that a DNAR/AND order does not mean that other health problems should go untreated.

Information Regarding Cardio-Pulmonary Resuscitation (CPR): CPR is sometimes helpful but other times can be harmful. It is most effective when a patient dies unexpectedly. CPR is rarely effective in advanced cancer, organ failure, other advanced illness, or advanced age when death would not be a surprise. CPR started in the nursing home almost never leads to survival. If CPR is initially successful in resuscitating a patient, the patient will be on a breathing machine in the ICU. Patients should discuss with their physician the potential to benefit from CPR based on their medical condition.

Section B and C: Provide guidance for more specific orders which a treating physician may issue according to the patient's medical condition, medical appropriateness, and local medical and nursing facility policy. These sections apply when a patient has a pulse and is breathing.

Is MOST a Valid Physician Order for Non-EMS Personnel? Yes. MOST is a valid order for health care personnel in an out of hospital setting other than Emergency Medical Services professionals, as stated in Section 166.102 of the Texas Health and Safety Code: PHYSICIAN'S DNR ORDER MAY BE HONORED BY HEALTH CARE PERSONNEL OTHER THAN EMERGENCY MEDICAL SERVICES PERSONNEL. (a) …a licensed nurse or person providing health care services in an out-of-hospital setting may honor a physician's do-not-resuscitate order.

Is MOST a Valid Physician Order for EMS Personnel? NO. If EMS comes to a patient in arrest, they will attempt CPR unless a completed (8 signatures) Texas-Out-of-Hospital DNR is present.

What Should Health Care Professionals (Other than EMS) Do With This Form? Make the form a part of the patient's medical record in your facility. Honor the order to attempt or not attempt CPR and patient treatment preferences in accordance with the standard of care in your community. If patient is transferred to any other medical facility, send the form with the patient.

Living Will, MPOA, and OOH-DNR Order: MOST is vital but does not replace these documents. EMS should honor and execute an OOH-DNR order or device [Tex. H&S Code, 166.102(b)] Although this MOST conveys important information about a patient's treatment preferences, it does not replace a Living Will, MPOA, or OOH-DNR Order. A patient's Living Will, MPOA, or OOH-DNR Order controls over this MOST. Health care professionals should be aware that when responding to a call for assistance, EMS personnel shall honor only a properly executed or issued OOH-DNR Order or identification device. [Tex. H&S Code, §166.102(b)].

Copy of MOST and HIPAA: A copy of a completed MOST is as valid as the original, and HIPAA permits disclosure of a completed MOST to other health care providers as necessary for treatment purposes. The complete MOST and associated documents will also be available to your treating physicians electronically via a secure local health information exchange.

Review: Physicians and patient/surrogate should review this form yearly or upon change in care setting, medical condition, or patient treatment preferences. If no changes, physician may simply initial the date of review in the boxes above. If changes are desired by the patient or surrogate, create a new form!

Date of Review								
Physician Initials								

SEND the MOST FORM ON ALL TRANSFERS BETWEEN HEALTHCARE SITES