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ADVANCE DIRECTIVES

INTRODUCTION

Advance directives are legal documents designed to ensure that your decisions concerning your medical care, including the right to refuse treatment, are understood and followed by your health care providers.

Both state and federal law require health care institutions and physicians to respect the wishes of a patient over eighteen years old concerning medical care, including the right to accept or refuse treatment and to discontinue treatment. The purpose of this booklet is to explain the process and the different options available to you.

This is an important matter, and you should talk to your spouse, family, close friends, your physician, and your attorney before deciding whether or not you want an advance directive.

GENERAL INFORMATION

What are “Advance Directives”?

Advance directives are legal documents that explain your choices about medical treatment or designate someone to make decisions about your medical treatment. These documents are referred to as “advance” directives because they are prepared in advance so that your health care providers will know your wishes concerning medical treatment.

Louisiana law recognizes two types of advance directives:

- 1) A living will (also known as a declaration); and
- 2) A health care power of attorney.

For your convenience, we have included a living will that is compliant with Louisiana law in this booklet.

What happens if I don’t have Advance Directives?

Advance directives are not required. If you do not have one and are unable to make decisions for yourself then your health care providers will consult with the following people in the order listed:

1. Your legal guardian
2. Your spouse
3. Your adult children
4. Your parents
5. Your brothers or sisters.
6. Other relatives that you may have.
7. An adult friend.

How do my health care providers know whether I have Advance Directives?

All health care facilities that receive federal funding must ask if you have advance directives, and if so, they must be placed in your medical chart.

Are health care providers required to follow my Advance Directives?

Generally, yes, if your advance directives comply with the law. The law requires your health care providers to give you their written policies concerning advance directives. It is possible 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 Louisiana law. If this occurs, your health care providers must immediately notify you. The law requires them to help you transfer to another doctor or facility that will honor your choices.

LIVING WILL (DECLARATION)

A living will is also referred to as a “declaration.” It is a declaration by an adult person directing the withholding or withdrawal of life-sustaining procedures in the event such person should have a terminal and irreversible condition. A living will can be in writing or in the form of an oral or nonverbal declaration. If it is in writing, the written declaration must be signed by you in the presence of two witnesses. An oral or nonverbal declaration may be made by an adult in the presence of two witnesses at any time after the diagnosis of the terminal and irreversible condition.

What is a “terminal and irreversible” condition?

A terminal and irreversible condition is defined as a continual profound comatose state (with no reasonable chance of recovery) or an incurable condition caused by injury, disease, or illness for which, within reasonable judgment, the administration of medical treatment or intervention would only prolong the dying process.

What are “Life-Sustaining” procedures?

A life-sustaining procedure is any medical procedure or treatment which only prolongs the dying process and does not cure or improve the terminal and irreversible condition. Some examples of life-sustaining procedures include the administration of cardio-pulmonary resuscitation, machines which perform the function of breathing for you (ventilators), and invasive administration of food and water. A “life-sustaining procedure” does not include any measure which is necessary to provide comfort care.

Who can witness my Living Will?

Any competent adult who is not related to you by blood or marriage and who would not be entitled to any portion of your estate may be a witness. The living will does not have to be notarized by a notary public.

When does my Living Will become effective?

Your living will becomes effective when the following three conditions are met:

- 1) Your health care provider has a copy of your living will,
- 2) Your physician and one other physician have determined that you are no longer able to make your own decisions concerning medical treatment and health care, and
- 3) Your physician and one other physician have determined that you are in a continual profound comatose state or have a terminal and irreversible condition.

A “Do Not Resuscitate” (DNR) order is not the same thing as a Living Will

A do not resuscitate (“DNR”) order is an order entered in your medical record by your physician at your request. A DNR provides that if you have a cardiac arrest (your heart stops beating) or a respiratory arrest (you stop breathing), your health care providers will not try to revive you by any means. A living will is broader than a DNR because the DNR only covers these two situations. A living will is designed to cover all types of life-sustaining treatments and procedures after you develop a terminal and irreversible condition.

If I have a Living Will, am I able to receive medication for pain?

Yes. Pain medication is considered comfort care. Unless you specifically state in your living will that you do not want pain medication, your physician will continue to provide pain medication as appropriate to ensure your comfort.

Can my physician be held liable for following my instructions?

Your physician or health care providers cannot be held criminally or civilly liable for following the instructions of your living will including the withholding or withdrawal of life-sustaining procedures.

Does a living will jeopardize my insurance coverage?

No.

Do I have to record my living will?

Louisiana law does not require you to record your living will. You should make sure that all of your health care providers have a copy of your living will. If you wish to register your living will with the Secretary of State, send either a certified copy or the original living will to the following address:

Office of Secretary of State
P.O. Box 94125
Baton Rouge, LA 70804-9125

The Secretary of State currently charges a fee for registration. If you have questions concerning the registration, you may contact the Office of the Secretary of State at (225) 922-0257.

Can I revoke my living will?

Yes. A living will may be revoked at any time. You may revoke your living will by destroying the original document or by preparing a written revocation expressing your wish to revoke the living will. This should be signed and dated by you. You must make your health care providers and family members aware of the fact that you have revoked your living will. If you have registered your living will with the Secretary of State, you may revoke your living will by filing a written notice of revocation with that office. You may also revoke your living will by an oral or nonverbal expression and this revocation becomes effective upon communication to your attending physician. The attending physician is required to record in your medical record the time and date when the notification of revocation was received.

HEALTH CARE POWER OF ATTORNEY

A health care power of attorney is a legal document by which you authorize another person (an agent) to make health care decisions for you. These can include health care decisions concerning surgery, medical expenses, nursing home residency, and medication administration. You may need a lawyer to help you draft this document.

Who is eligible to be appointed as my agent?

You may appoint any competent adult (must be 18 years of age or older) to be your agent. You should make sure that the person you select has an understanding of your wishes and is comfortable accepting the responsibility. Members of your family are the most common choices for the agent. It is usually best not to appoint a treating health care provider as your agent in order to avoid a potential conflict of interest.

What type of decisions does my health care power of attorney cover?

You have the ability to control the decisions your agent is able to make. If you do not limit your agent's authority, then your agent will be able to make the same decisions concerning medical treatment and intervention that you would be permitted to make. A health care power of attorney that restricts an agent's ability to act in some way is sometimes referred to as a "limited" health care power of attorney.

Can I appoint more than one individual as my agent?

Yes. The law allows you to designate alternatives in the event that your first choice is unable or unwilling to act.

What are the differences between the health care power of attorney and the living will?

The living will only comes into play if you are in a continual profound comatose state or are terminally ill. The health care power of attorney allows you to appoint an agent to make all medical decisions for you regardless of your physical or mental condition. The health care power of attorney is broader and gives your agent the authority to respond to unanticipated medical situations.

LOUISIANA LIVING WILL DECLARATION

Declaration made this _____ day of _____, _____ (month, year).

I, _____, being of sound mind, willfully and voluntarily make known my desire that my dying shall not be artificially prolonged under the circumstances set forth below and do hereby declare:

If at any time I should have an incurable injury, disease, or illness, or be in a continual profound comatose state with no reasonable chance of recovery, certified to be a terminal and irreversible condition by two physicians who have personally examined me, one of whom shall be my attending physician, and the physicians have determined that my death will occur whether or not life-sustaining procedures are utilized and where the application of life-sustaining procedures would serve only to prolong artificially the dying process,

I direct that the instructions listed below be followed:

Cardiopulmonary Resuscitation (CPR)

If my heart stops beating, I have no pulse, and I am not breathing:

- I do not want CPR. I want to be allowed a natural death.
- I want CPR.

Medical Interventions

I desire the following interventions:

- I do not want life-support treatment. I want **comfort measures only**. Use medical care to relieve pain and keep me comfortable so that I do not suffer. I do not want to be transferred to a hospital.
- I want **limited additional interventions**. My healthcare provider can determine if I need life-support treatment, but I want the life-support treatment stopped if it does not help my condition. Use medical care to relieve pain and keep me comfortable so that I do not suffer. Use medical treatment, IV fluids and cardiac monitor as indicated. Do not use intubations, advanced airway interventions or mechanical ventilation. I want to be transferred to a hospital if indicated. Avoid intensive care unit if possible.
- I want life-support treatment, meaning I want **full treatment**. My healthcare provider should use all measures available. Use oxygen, oral suction and manual treatment of airway obstruction as needed for comfort. Use medical treatment, IV fluids and cardiac monitor as indicated. Use intubations, advanced airway interventions and mechanical ventilation. I want to be transferred to a hospital if indicated. Include intensive care unit if needed.

Artificially Administered Nutrition and Fluids

If I am unable to eat well enough or be assisted in eating well enough to support my physical health:

Nutrition

- I do not want artificial nutrition by tube, meaning I don't want a feeding tube placed in my stomach or intestine.

- My healthcare provider can determine if I need a trial period of artificial nutrition by tube.
- I want long-term artificial nutrition by tube.

Fluids

- I do not want IV fluids.
- My healthcare provider can determine if I need a trial period of IV fluids.
- I want IV fluids.

Antibiotics

In some cases, the use of antibiotics may prolong life, but not change overall health. If this is the case for me:

- I do not want antibiotics. Use other measures to relieve symptoms.
- My healthcare provider can determine use or limitation of antibiotics when infection occurs, with my comfort as the goal.
- Use antibiotics if my life can be prolonged.

Location

If my health is not expected to improve:

- I want to spend my last days in a healthcare facility.
- I want to spend my last days at home.
- I want to spend my last days in hospice care either at home or at a hospice care facility.

In the absence of my ability to give directions regarding the use of such life-sustaining procedures, it is my intention that this declaration shall be honored by my family and physician(s) as the final expression of my legal right to refuse medical or surgical treatment and accept the consequences from such refusal.

Signature Page Follows

DECLARANT SIGNATURE

I understand the full import of this declaration, and I am emotionally and mentally competent to make this declaration.

Signature: _____ Print Name: _____

City, Parish and State of Residence _____

WITNESS SIGNATURES

The declarant has been personally known to me, and I believe him or her to be of sound mind.

Witness: _____ Print Name: _____

Witness: _____ Print Name: _____

Should any specific directions be held to be invalid, such invalidity shall not effect other directions of the declaration which can be given effect without the invalid direction, and to this end the directions in the declaration are severable.

WALLET CARDS FOR LOUISIANA ADVANCE DIRECTIVES

Cut out and complete the cards below. Put one card in the wallet or purse you carry most often, along with your driver's license or health insurance card. You can keep the second card on your refrigerator, in your motor vehicle glove compartment, a spare wallet or purse, or other easy-to-find place.



ATTN: LOUISIANA HEALTH CARE PROVIDERS

I have created the following Advance Directives:

(Check one or more, as appropriate)

- Louisiana Declaration
- Health Care Power of Attorney
- Other _____

For more information, please contact

Name: _____

Address: _____

Telephone: _____

(Signature) (Date)



ATTN: LOUISIANA HEALTH CARE PROVIDERS

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