

PATIENT BROCHURE

COMPLIANCE WITH THE PATIENT SELF-DETERMINATION ACT



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VNA PATIENT BROCHURE

COMPLIANCE WITH THE PATIENT SELF-DETERMINATION ACT

INTRODUCTION

The federal government passed a law in 1990 known as the Patient Self-Determination Act. This law requires Medicare and Medicaid participating hospitals, skilled nursing facilities, home health agencies, hospice programs, and prepaid or other eligible organizations (such as health maintenance organizations) to provide patients with written information regarding their rights under state law to accept or refuse medical treatment and their rights to make advance directives. An "advance directive" is a written instruction, such as a Directive to Physicians and Family or Surrogates, which is also known as a living will, or a Medical Power of Attorney recognized under state law and related to the provision of care when an individual is incapacitated. To comply with the Patient Self-Determination Act, a health care provider like Visiting Nurse Association of Texas (VNA), which is a Medicare and Medicaid participating home health agency and hospice, must give all adult patients written information regarding the following:

- (1) the patient's rights under state law to make medical care decisions; and
- (2) the provider's policies and procedures regarding the implementation of such rights.

Decisions about your health care are very important and should not be solely left up to your physician or other health care provider. While health care professionals may offer valuable input, you have the ultimate right to decide what type of medical care, if any, is best for you. Decisions about your medical care should not be left up to a judge, unless it is absolutely unavoidable. This patient brochure tells you about your rights under federal and Texas law to accept or refuse medical or surgical treatment and to issue medical instructions regarding your health care.

INFORMED CONSENT – CONSENT TO MEDICAL TREATMENT – REFUSAL OF CARE

TEXAS LAW ON THE RIGHT TO INFORMED CONSENT

Under Texas law, except in an emergency, you have the right as a patient to be informed by your physician about your condition and any treatment that he or she recommends for you so that you may decide whether or not to have the treatment. To be informed, you need to know the risks and hazards involved in the treatment, alternate forms of treatment, and the risks and hazards involved with the alternate forms of treatment or with no treatment. You have the right to learn these things before you decide about the treatment. In Texas, you also have the right to refuse medical treatment for personal or religious reasons, although certain limitations may be imposed.

TEXAS LAW ON CONSENT TO MEDICAL TREATMENT

The Consent to Medical Treatment Act provides a mechanism for obtaining consent to treat an incapacitated person who has not designated a legal guardian or an agent under a Medical Power of Attorney or a Durable Power of Attorney for Health Care (prior to September 1, 1999). If as an adult person you are incompetent or otherwise mentally or physically incapable of communication, then an adult surrogate may consent to medical treatment on your behalf.

The following individuals with decision-making capacity, in order of priority, may serve as a surrogate decision-maker:

- (1) the patient's spouse;
- (2) an adult child of the patient who has the waiver and consent of all other qualified adult children of the patient to act as the sole decision-maker;
- (3) a majority of the patient's reasonably available adult children;
- (4) the patient's parents; or
- (5) the individual clearly identified by the patient before the patient became incapacitated, the patient's nearest living relative, or a member of the clergy.

The law does not apply in certain situations. For example, a surrogate decision-maker may not consent to voluntary inpatient mental health services for you.

If you have any questions or need further information about consent issues, please contact your attending physician or a VNA health care professional.

ADVANCE DIRECTIVES

INTRODUCTION

In 1999, the Texas Legislature enacted legislation that made significant changes to Texas laws governing advance directives. Effective September 1, 1999, the Texas Advance Directives Act (the Act) consolidated three different areas of the law: the Directive to Physicians and Family or Surrogates (formerly the Natural Death Act); the Medical Power of Attorney (formerly the Durable Power of Attorney for Health Care); and the Out-of-Hospital Do-Not-Resuscitate (DNR) Order. The Act is discussed first. Because Directives to Physicians, Durable Powers of Attorney for Health Care, and Out-of-Hospital DNR Orders that were validly executed before September 1, 1999, remain valid, the law before September 1, 1999, is also discussed later in this brochure. Another law concerning Declarations for Mental Health Treatment (Mental Health Declarations) became effective September 1, 1997, and remains in effect. Mental Health Declarations that were validly executed after September 1, 1997, remain valid.

TEXAS LAW AFTER SEPTEMBER 1, 1999

General

As noted above, the Act consolidated the Texas laws that addressed the three types of advance directives: the Directive; the Medical Power of Attorney; and the Out-of-Hospital DNR Order.

The Act includes a section entitled "General Provisions," which are applicable to all three types of directives. A patient admitted to a program for hospice services provided by a licensed home and community support services agency such as VNA is presumed to have a terminal condition.

Each type of directive allows written execution or issuance by non-written means, and the directive must be witnessed by two competent adults, unless otherwise provided by the laws governing the specific type of directive. At least one of the witnesses must be a person who is not:

- (1) designated by you to make a treatment decision;
- (2) related to you by blood or marriage;
- (3) entitled to any part of your estate after your death;
- (4) the attending physician;
- (5) an employee of the 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 facility or any parent organization of the facility; or
- (7) who, at the time the advance directive is executed, has a claim against any part of your estate after your death.

If an advance directive or treatment decision conflicts with another directive you have given, the document executed later in time controls.

Directive as Outlined in the Advance Directives Act

The Directive to Physicians and Family or Surrogate is known simply as a Directive under the new law. As with the Natural Death Act, the provisions of the Act governing Directives establish a mechanism through which you may provide in advance for the provision, withdrawal, or withholding of medical care, should you be certified in writing by your attending physicians as suffering from a terminal or irreversible condition. Through the execution of a Directive, you may instruct your physician to provide, withhold, or withdraw life-sustaining treatment if you are suffering with a terminal or irreversible condition, even with available life-sustaining treatment provided in accordance with prevailing standards of medical care.

To be effective, the Directive must be signed by you. It must either be witnessed by two individuals as described in the General section above, or your signature must be acknowledged before a notary public. However, there is not a requirement that a specific form be used for a Directive or that a Directive be notarized, unless you do not have two witnesses as described in the General section above. A competent, qualified patient may issue a Directive by verbal or by other non-written means of communication, but it must be done in the presence of the attending physician and two qualified witnesses, and the witnesses' names must be entered into the medical record.

You may revoke a Directive at any time, even in the final stages of a terminal illness. An expressed desire to receive life-sustaining treatment will at all times supersede the effect of a Directive.

In situations where an adult qualified patient has not executed or issued a Directive and is incompetent or incapable of communication, the attending physician and the patient's guardian or agent under a Medical Power of Attorney may make a treatment decision concerning the withholding or withdrawal of life-sustaining treatment. In cases where a guardian or agent has not been appointed, one family member may make treatment decisions in conjunction with the attending physician. The Act specifies which family members are qualified to participate in decision-making and designates a certain order of priority. A person who wishes to challenge a treatment decision made by a surrogate decision-maker must apply for temporary guardianship under the Texas Probate Code. Also, if the patient does not have a legal guardian and a designated person specified in the Act is not available, a treatment decision made by the patient's attending physician that may include the withholding of life-sustaining treatments must be concurred with by another physician who is not involved in your treatment or who is a representative of the appropriate health care facility's ethics or medical committee.

A copy of the form Directive included in Texas law, along with the related instructions for completing the document, is located on pages A-1 through A-3 of this brochure.

If you have any questions or need further information about Directives, please contact your attending physician or a VNA health care professional.

Out-of-Hospital Do-Not-Resuscitate Order Provisions of the Advance Directives Act

The Out-of-Hospital DNR Order allows you, as a competent adult, to refuse cardiopulmonary resuscitation and certain other life-sustaining treatments in an out-of-hospital setting in which health care professionals are called for assistance. Locations considered to be out-of-hospital for which an out-of-hospital DNR Order is effective include long-term care facilities, inpatient hospice facilities, private homes, hospital outpatient and emergency departments, physicians' offices, and vehicles during transport. Responding health care professionals, including physicians, nurses, physician assistants, emergency medical services (EMS) personnel and, unless the context requires otherwise, hospital emergency personnel, who discover an original or copy of an Out-of-Hospital DNR Order on the standard form issued by the Texas Department of State Health Services that appears to be valid or a DNR identification device on a patient will not provide the following: cardiopulmonary resuscitation; advanced airway management; artificial ventilation; defibrillation; and transcutaneous cardiac pacing. However, such treatments may not be withheld from a pregnant person, even if that person has executed an Out-of-Hospital DNR Order. The directive to the responding health care professionals under an Out-of-Hospital DNR Order does not affect the provision of other emergency care, including comfort care.

As a competent adult, you may issue an Out-of-Hospital DNR Order by non-written communication in the presence of the attending physician and two witnesses described under the Act. These individuals must sign the Out-of-Hospital DNR Order form, and an entry must be made in your medical record.

An Out-of-Hospital DNR Order becomes effective when it is executed. A competent person may revoke an Out-of-Hospital DNR Order at any time.

If you, as an adult, become incompetent or incapable of communication after executing an Out-of-Hospital DNR Order and have designated an individual to make a treatment decision under the Directive provisions of the Act, the attending physician and the designated individual will comply with the Out-of-Hospital DNR Order. If you, as an adult, become incompetent or incapable of communication and have not executed or issued an Out-of-Hospital DNR Order, your attending physician and your legal guardian, a proxy, or an agent under a Medical Power of Attorney may execute an Out-of-Hospital DNR Order based on knowledge of what you would desire. If you are incompetent or otherwise mentally or physically incapable of communication and do not have a legal guardian, proxy, or agent, at least one qualified relative, subject to established priority under the Act, may execute the Out-of-Hospital DNR Order. If a qualified relative is not available, another physician who is not involved in your care or who is a representative of the facility's ethics or medical committee must concur with the Out-of-Hospital DNR Order.

A copy of the state-approved form Out-of-Hospital DNR Order is located on pages B-1 through B-2 of this brochure. Your attending physician must be involved in the completion of this form.

If you have any questions or need further information about an Out-of-Hospital DNR Order, please contact your attending physician or a VNA health care professional.

Medical Power of Attorney Provisions of the Advance Directives Act

A Medical Power of Attorney allows you to designate a third party as your agent for purposes of making any health care decision in the event that you become incompetent. "Incompetent" means that you lack the ability, based on reasonable medical judgment, to understand and appreciate the nature and consequences of a treatment decision, including the significant benefits and harms of, and reasonable alternatives to, a proposed treatment decision. A

Medical Power of Attorney is different from a Directive because it does not require you to be suffering from a terminal or irreversible condition, and it becomes operative only when your attending physician certifies that you have become incompetent. The Medical Power of Attorney may be used to facilitate day-to-day medical decisions for you if you do not have a terminal medical condition but lack the ability to understand and appreciate the benefits, harms, and consequences of a proposed treatment decision. It also may provide for medical decision-making on your behalf if you are suffering with a terminal or irreversible medical condition. You should sign a statement that you have read and understand a disclosure statement about the Medical Power of Attorney prior to executing a Medical Power of Attorney. The law includes the required language for a disclosure statement form as well as the Medical Power of Attorney.

Your Medical Power of Attorney is effective indefinitely upon execution and delivery of the document to your agent, unless you revoke it. The Medical Power of Attorney must be witnessed by two individuals as described in the General section above.

Your agent may exercise authority under a Medical Power of Attorney only if your attending physician certifies in writing and files a certification in your medical record that, based upon the physician's medical judgment, you are incompetent to consent to medical treatment. Your agent may not be your healthcare provider, your residential care provider, or an employee of either your healthcare provider or residential care provider unless he/she is your relative. If you regain competency, the agent's authority to consent to medical treatment is removed. If you are certified as incompetent again, the agent's authority to consent to medical treatment for you is reactivated according to the terms of the Medical Power of Attorney.

After consultation with the attending physician, your agent must make a health care decision according to the agent's knowledge of your wishes, or, if the agent does not know, according to the agent's assessment of your best interest. Your agent may not consent to certain procedures, such as abortion or voluntary inpatient mental health services. Your agent may request and review information concerning your physical or mental health, including medical or hospital records, and may execute a release for the disclosure of information.

A copy of the form Medical Power of Attorney included in Texas law, along with the related Disclosure Statement with important facts about the document, is located on pages C-1 through C-5 of this brochure.

If you have any questions or need further information about a Medical Power of Attorney, please contact your attending physician or a VNA health care professional.

Declaration for Mental Health Treatment Act

Although not part of the Act, the Declaration for Mental Health Treatment Act (enacted in 1997) allows an adult who is not incapacitated to execute a Mental Health Declaration to list instructions for consent to or refusal of mental health treatment. The Mental Health Declaration must be substantially in the form specified in the law. Once executed, a Mental Health Declaration is effective for three years or until revoked. However, if you are incapacitated on the third anniversary following execution, the Mental Health Declaration remains effective until you are no longer incapacitated.

The Mental Health Declaration must be signed by you in the presence of two or more subscribing witnesses. There are restrictions on who may serve as a witness.

Activation of a Mental Health Declaration requires a finding by a court that you are incapacitated in either a guardianship proceeding or a medication hearing. The court must determine that you lack the ability to understand the nature and consequences of a proposed treatment, including

the benefits, risks, and alternatives to the proposed treatment and lack the ability to make health care treatment decisions because of impairment. Physicians and other health care providers must act in accordance with a Mental Health Declaration when you are found to be incapacitated by a court.

If you have any questions or need further information about a Mental Health Declaration, please contact your attending physician or a VNA health care professional.

TEXAS LAW BEFORE SEPTEMBER 1, 1999

Please note that this discussion is only applicable if you validly executed a Directive (formerly referred to as a Directive to Physicians), a Durable Power of Attorney for Health Care, or an Out-of-Hospital DNR Order before September 1, 1999. The law on Mental Health Declarations is still effective if you validly executed a Mental Health Declaration after September 1, 1997.

Texas Law before September 1, 1999, on Directives to Physicians

Before September 1, 1999, a law called the Texas Natural Death Act allowed competent adults to give written or oral instructions to their physicians about when not to use artificial life-prolonging methods. In Texas, these instructions are called Directives or Directives to Physicians, although many people know them as living wills. If you issued a Directive to Physicians before September 1, 1999, the following applies. Your instructions become effective only if you develop an incurable or irreversible illness. Both your attending physician and at least one other physician who examines you must certify that you are in a terminal condition before life-sustaining procedures are withheld or withdrawn. The Texas Natural Death Act also permits you to give additional instructions to your attending physician. For example, you could tell your physician whether or not you want to limit nutrients or fluids, or you could designate someone to make a decision for you. However, a Directive to Physicians issued by a pregnant woman is not valid. Under the Natural Death Act, two witnesses must sign the Directive to Physicians, and those witnesses must meet certain conditions in order to witness the document.

If you have any questions or need further information about a Directive to Physicians executed before September 1, 1999, please contact your attending physician or a VNA health care professional.

Texas Law before September 1, 1999, on Durable Powers of Attorney for Health Care

Before September 1, 1999, another Texas law allowed competent adults to sign a document known as a Durable Power of Attorney for Health Care. Under this law, you could designate another person (referred to as your agent, who is often a spouse or next of kin) to make health care decisions for you. A Durable Power of Attorney for Health Care becomes effective only if and when you lose your capacity to make health care decisions. Certain individuals, such as your attending physician, an employee of your attending physician, or a VNA employee, may not exercise the authority of an agent.

The Texas law regarding Durable Powers of Attorney for Health Care contained a great deal of additional information. As with a Directive to Physicians, qualified witnesses must have signed a Durable Power of Attorney for Health Care. A Durable Power of Attorney for Health Care may provide more flexibility than a Directive to Physicians because you do not need to be in an incurable or irreversible condition for your agent to act on your behalf.

If you have any questions or need further information about a Durable Power of Attorney for Health Care executed before September 1, 1999, please contact your attending physician or a VNA health care professional.

Texas Law before September 1, 1999, on Out-of-Hospital Do-Not-Resuscitate Orders

An advance directive called an Out-of-Hospital DNR Order is available in Texas for any person who has been diagnosed by a physician as having a terminal condition. This form could be executed by a competent, conscious patient, or by a comatose or incompetent patient's agent, proxy, parent, legal guardian, managing conservator, or qualified relatives. The Out-of-Hospital DNR Order has been used to prevent resuscitative efforts normally performed by EMS personnel but may also apply in an out-of-hospital setting, such as home care or the hospital emergency room.

The Out-of-Hospital DNR Order form is a state-created document with a distinctive logo (unlike other advance directives that may be produced and copied through many sources). The logo is designed to quickly inform health care personnel that the Out-of-Hospital DNR Order form is valid. Before September 1, 1999, the form had to be filled out by the person or the person's agent and the person's attending physician and witnessed by two individuals who were not related to or caring for the person completing the form. The form should remain with the person wherever the person goes, and the person may also wear a state-approved identification bracelet or necklace. It is the presence of the form or a bracelet or necklace that informs the EMS personnel, home health, or hospice staff that the resuscitation efforts usually required by practice standards are not required. Under the form in effect prior to September 1, 1999, you may not order the withholding of nutrients and fluids or medication and procedures necessary to provide comfort or reduce pain. A woman known to be pregnant cannot use an Out-of-Hospital DNR Order. You may revoke an order at any time by destroying the form and removing any identification or by telling your health care personnel that you want to revoke your Out-of-Hospital DNR Order.

If you have any questions or need further information about an Out-of-Hospital DNR Order executed before September 1, 1999, please contact your attending physician or a VNA health care professional.

OTHER LEGAL CONCERNS

You may have heard of two other legal documents that might allow an adult to issue an advance directive. One is known as a general power of attorney, and the other is known as a special power of attorney. These two types of documents may, under limited circumstances, be used to designate another individual to make health care decisions. It is best to consult an attorney if you intend to try to utilize either of these documents in conjunction with your future health care decisions.

ELECTRONIC MAINTENANCE OF ADVANCE DIRECTIVES

A computer software application (app) called My Health Care Wishes gives individuals and their families the ability to store advance directives for themselves and others, important health care information, and health care contacts on their Apple or Android smartphones. More information and a link to download the app can be found at www.myhealthcarewishes.org.

VNA'S WRITTEN POLICIES AND PROCEDURES

VNA'S WRITTEN POLICY AND PROCEDURE ON INFORMED CONSENT - CONSENT TO MEDICAL TREATMENT - REFUSAL OF CARE

Consistent with a patient's right to determine whether to receive medical treatment is the right of the patient to be informed about the risks of certain medical treatments prior to giving consent to

be treated. Physicians are required to disclose those risks and hazards associated with a procedure that would influence a reasonable person in making a decision whether to consent to the procedure.

VNA wants its patients to be informed by their physicians about their treatment or plan of care before treatment begins and to give their consent freely. Before you receive any treatment, you should be told by your physician about your present condition, the risks and hazards connected with your proposed treatment, the nature and purpose of the proposed treatment, alternate treatments, and the risks and hazards of the alternate treatments.

Under VNA's written procedures, if you are going to receive home health or hospice care through VNA, you will be given a Patient Care Agreement form that authorizes VNA personnel to provide you with treatment and the care recommended by your physician.

VNA's Written Policy and Procedure on Directives

VNA honors the requests of patients, families, or other responsible parties regarding the wishes of VNA patients not to be resuscitated, should death occur while VNA personnel are present. VNA recognizes that patients have the right to make these decisions and have them respected. Before health care personnel may refrain from initiating life-sustaining procedures in an in-hospital setting, however, a DNR Order must be issued by your treating physician. An Out-of-Hospital DNR Order is only valid in out-of-hospital settings, such as long-term care facilities and inpatient hospice facilities.

Although decisions may be made to limit certain kinds of treatment in accordance with your advance directive, VNA remains committed to providing continuous and appropriate care for every patient under all circumstances. Throughout the decision-making process, maintaining the comfort and dignity of every patient will always be a primary goal of every health care provider at VNA.

Under VNA's written procedure, a Directive, if one exists, will be placed in the patient's medical record, and VNA will inform other health care professionals of its existence when it is legally obligated to do so.

VNA's Written Policy and Procedure on the Use of Powers of Attorney

VNA's Written Policy and Procedure for the Use of Durable Powers of Attorney for Health Care and General Powers of Attorney in limited cases executed before September 1, 1999, and Medical Powers of Attorney executed after September 1, 1999, recognize that for certain patients, the necessary but delicate issue of identifying an alternate decision-maker, in case of future incapacitation, should be addressed. VNA's written policy and procedure allows VNA to follow the instructions of a patient's agent, including the withholding of treatment, on the basis of a valid power of attorney.

VNA's Written Policy and Procedure on Out-of-Hospital Do-Not-Resuscitate Orders

VNA honors all Out-of-Hospital DNR Orders that are in its records or that appear to be legally valid and complete and all legal DNR identification devices. VNA will not honor an Out-of-Hospital DNR Order that is not legally complete.

Under VNA's written policy, in responding to calls for assistance from a patient who has executed an Out-of-Hospital DNR Order, VNA professionals will identify the patient as the one who executed the Out-of-Hospital DNR Order (or had the Out-of-Hospital DNR Order executed on his or her behalf) and confirm that the form includes the necessary information, names,

signatures, and date of execution. If the Out-of-Hospital DNR Order appears valid or the patient is wearing a recognized DNR identification device, VNA professionals will not begin or continue the identified life-sustaining procedures.

VNA's Written Policy and Procedure on the Use of Declaration for Mental Health Treatment

VNA's Written Policy and Procedure on the use of Mental Health Declarations, as is the case with Durable Powers of Attorney for Health Care, recognizes that for certain patients, an alternate decision-maker for mental health treatment in case of future incapacitation should be identified. VNA encourages such discussion as soon as it seems beneficial and prudent. VNA's policy and procedure allow physicians and other health care providers to follow the instructions of a patient's agent in accordance with the law.

You should read the Mental Health Declaration carefully. VNA personnel cannot serve as witnesses to a Mental Health Declaration, so you will need to find your own qualified witnesses. *You are not required to sign a Mental Health Declaration, and no one may deny you insurance or health care services because you have or have not signed a Mental Health Declaration.* Mental health treatment instructions contained in a Mental Health Declaration executed in accordance with Texas law supersede any contrary or conflicting instructions given by a Durable Power of Attorney under Texas law or a guardian appointed under the Texas Probate Code after the execution of the declaration. A copy of your Mental Health Declaration will be placed in your medical record.

CONCLUSION

This brochure is intended to provide written information regarding a patient's rights under state law to make medical care decisions and VNA's policies and procedures regarding the implementation of such rights. Forms for the Directive, Medical Power of Attorney, and Out-of-Hospital DNR Order are included in this brochure.

According to VNA's policies and procedures, a Patient Care Agreement form, a copy of a Directive, a copy of a Medical Power of Attorney, a copy of a completed Out-of-Hospital DNR Order and/or a copy of a Mental Health Declaration will be maintained in the patient's medical record if those documents have been executed. *At no time will VNA condition care or otherwise discriminate against an individual based upon whether or not the individual has executed an advance directive.*

If you have any questions or need further information about advance directives, please contact your attending physician or a VNA health care professional.

NOTICE: This brochure has been prepared to comply with the Patient Self-Determination Act 42 U.S.C. § 1395cc. This written information is not intended to serve as legal advice. VNA personnel are not allowed to provide you with legal advice; their activity is limited to giving you this information and assisting with your health care concerns. *You should consult your own attorney with particular legal questions.*

Prepared on May 1, 2014.

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. 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:

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 artificial nutrition and fluids, 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 persons to make treatment decisions with my physician compatible with my personal values:

1. _____ . In the event he/she dies, becomes disabled or resigns, I appoint:
2. _____, as the alternate.

(If a Medical Power of Attorney has been executed, then an agent has already 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.

SIGNED on the ____ day of _____, 20____, in _____ (City),
_____ County, State of _____.

Declarant's Signature

Declarant's Printed Name

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's Signature

Witness's Printed Name

Witness's Signature

Witness's Printed Name

Definitions:

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

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

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

Explanation: Many serious illnesses such as cancer, failure of major organs (kidney, heart, liver, or lung), and serious brain disease such as Alzheimer’s dementia may be considered irreversible early on. There is no cure, but the patient may be kept alive for prolonged periods of time if the patient 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.

OUT-OF-HOSPITAL DO-NOT-RESUSCITATE (OOH-DNR) ORDER

Print Form



This document becomes effective immediately on the date of execution for health care professionals acting in out-of-hospital settings. It remains in effect until the person is pronounced dead by authorized medical or legal authority or the document is revoked. Comfort care will be given as needed.

Person's full legal name _____ Date of birth _____ Male Female

A. Declaration of the adult person: I am competent and at least 18 years of age. I direct that none of the following resuscitation measures be initiated or continued for me: cardiopulmonary resuscitation (CPR), transcutaneous cardiac pacing, defibrillation, advanced airway management, artificial ventilation.

Person's signature _____ Date _____ Printed name _____

B. Declaration by legal guardian, agent or proxy on behalf of the adult person who is incompetent or otherwise incapable of communication:

I am the: legal guardian; agent in a Medical Power of Attorney; OR proxy in a directive to physicians of the above-noted person who is incompetent or otherwise mentally or physically incapable of communication.

Based upon the known desires of the person, or a determination of the best interest of the person, I direct that none of the following resuscitation measures be initiated or continued for the person: cardiopulmonary resuscitation (CPR), transcutaneous cardiac pacing, defibrillation, advanced airway management, artificial ventilation.

Signature _____ Date _____ Printed name _____

C. Declaration by a qualified relative of the adult person who is incompetent or otherwise incapable of communication: I am the above-noted person's:

spouse, adult child, parent, OR nearest living relative, and I am qualified to make this treatment decision under Health and Safety Code §166.088.

To my knowledge the adult person is incompetent or otherwise mentally or physically incapable of communication and is without a legal guardian, agent or proxy. Based upon the known desires of the person or a determination of the best interests of the person, I direct that none of the following resuscitation measures be initiated or continued for the person: cardiopulmonary resuscitation (CPR), transcutaneous cardiac pacing, defibrillation, advanced airway management, artificial ventilation.

Signature _____ Date _____ Printed name _____

D. Declaration by physician based on directive to physicians by a person now incompetent or nonwritten communication to the physician by a competent person: I am the above-noted person's attending physician and have:

seen evidence of his/her previously issued directive to physicians by the adult, now incompetent; OR observed his/her issuance before two witnesses of an OOH-DNR in a nonwritten manner.

I direct that none of the following resuscitation measures be initiated or continued for the person: cardiopulmonary resuscitation (CPR), transcutaneous cardiac pacing, defibrillation, advanced airway management, artificial ventilation.

Attending physician's signature _____ Date _____ Printed name _____ Lic# _____

E. Declaration on behalf of the minor person: I am the minor's: parent; legal guardian; OR managing conservator.

A physician has diagnosed the minor as suffering from a terminal or irreversible condition. I direct that none of the following resuscitation measures be initiated or continued for the person: cardiopulmonary resuscitation (CPR), transcutaneous cardiac pacing, defibrillation, advanced airway management, artificial ventilation.

Signature _____ Date _____

Printed name _____

TWO WITNESSES: (See qualifications on backside.) We have witnessed the above-noted competent adult person or authorized declarant making his/her signature above and, if applicable, the above-noted adult person making an OOH-DNR by nonwritten communication to the attending physician.

Witness 1 signature _____ Date _____ Printed name _____

Witness 2 signature _____ Date _____ Printed name _____

Notary in the State of Texas and County of _____. The above noted person personally appeared before me and signed the above noted declaration on this date: _____.

Signature & seal: _____ Notary's printed name: _____ Notary Seal

[Note: Notary cannot acknowledge the witnessing of the person making an OOH-DNR order in a nonwritten manner]

PHYSICIAN'S STATEMENT: I am the attending physician of the above-noted person and have noted the existence of this order in the person's medical records. I direct health care professionals acting in out-of-hospital settings, including a hospital emergency department, not to initiate or continue for the person: cardiopulmonary resuscitation (CPR), transcutaneous cardiac pacing, defibrillation, advanced airway management, artificial ventilation.

Physician's signature _____ Date _____

Printed name _____ License # _____

F. Directive by two physicians on behalf of the adult, who is incompetent or unable to communicate and without guardian, agent, proxy or relative: The person's specific wishes are unknown, but resuscitation measures are, in reasonable medical judgment, considered ineffective or are otherwise not in the best interests of the person. I direct health care professionals acting in out-of-hospital settings, including a hospital emergency department, not to initiate or continue for the person: cardiopulmonary resuscitation (CPR), transcutaneous cardiac pacing, defibrillation, advanced airway management, artificial ventilation.

Attending physician's signature _____ Date _____ Printed name _____ Lic# _____

Signature of second physician _____ Date _____ Printed name _____ Lic# _____

Physician's electronic or digital signature must meet criteria listed in Health and Safety Code §166.082(c).

All persons who have signed above must sign below, acknowledging that this document has been properly completed.

Person's signature _____ Guardian/Agent/Proxy/Relative signature _____

Attending physician's signature _____ Second physician's signature _____

Witness 1 signature _____ Witness 2 signature _____ Notary's signature _____

This document or a copy thereof must accompany the person during his/her medical transport.

INSTRUCTIONS FOR ISSUING AN OOH-DNR ORDER

PURPOSE: The Out-of-Hospital Do-Not-Resuscitate (OOH-DNR) Order on reverse side complies with Health and Safety Code (HSC), Chapter 166 for use by qualified persons or their authorized representatives to direct health care professionals to forgo resuscitation attempts and to permit the person to have a natural death with peace and dignity. This Order does NOT affect the provision of other emergency care, including comfort care.

APPLICABILITY: This OOH-DNR Order applies to health care professionals in out-of-hospital settings, including physicians' offices, hospital clinics and emergency departments.

IMPLEMENTATION: A competent adult person, at least 18 years of age, or the person's authorized representative or qualified relative may execute or issue an OOH-DNR Order. The person's attending physician will document existence of the Order in the person's permanent medical record. The OOH-DNR Order may be executed as follows:

Section A - If an adult person is competent and at least 18 years of age, he/she will sign and date the Order in Section A.

Section B - If an adult person is incompetent or otherwise mentally or physically incapable of communication and has either a legal guardian, agent in a medical power of attorney, or proxy in a directive to physicians, the guardian, agent, or proxy may execute the OOH-DNR Order by signing and dating it in Section B.

Section C - If the adult person is incompetent or otherwise mentally or physically incapable of communication and does not have a guardian, agent, or proxy, then a qualified relative may execute the OOH-DNR Order by signing and dating it in Section C.

Section D - If the person is incompetent and his/her attending physician has seen evidence of the person's previously issued proper directive to physicians or observed the person competently issue an OOH-DNR Order in a nonwritten manner, the physician may execute the Order on behalf of the person by signing and dating it in Section D.

Section E - If the person is a **minor** (less than 18 years of age), **who has been diagnosed by a physician as suffering from a terminal or irreversible condition**, then the minor's parents, legal guardian, or managing conservator may execute the OOH-DNR Order by signing and dating it in Section E.

Section F - If an adult person is incompetent or otherwise mentally or physically incapable of communication and does not have a guardian, agent, proxy, or available qualified relative to act on his/her behalf, then the attending physician may execute the OOH-DNR Order by signing and dating it in Section F with concurrence of a second physician (signing it in Section F) who is not involved in the treatment of the person or who is not a representative of the ethics or medical committee of the health care facility in which the person is a patient.

In addition, the OOH-DNR Order must be signed and dated by two competent adult witnesses, who have witnessed either the competent adult person making his/her signature in section A, or authorized declarant making his/her signature in either sections B, C, or E, and if applicable, have witnessed a competent adult person making an OOH-DNR Order by nonwritten communication to the attending physician, who must sign in Section D and also the physician's statement section.

Optionally, a competent adult person or authorized declarant may sign the OOH-DNR Order in the presence of a notary public. However, a notary cannot acknowledge witnessing the issuance of an OOH-DNR in a nonwritten manner, which must be observed and only can be acknowledged by two qualified witnesses. Witness or notary signatures are not required when two physicians execute the OOH-DNR Order in section F. The original or a copy of a fully and properly completed OOH-DNR Order or the presence of an OOH-DNR device on a person is sufficient evidence of the existence of the original OOH-DNR Order and either one shall be honored by responding health care professionals.

REVOCACTION: An OOH-DNR Order may be revoked at ANY time by the person, person's authorized representative, or physician who executed the order.

Revocation can be by verbal communication to responding health care professionals, destruction of the OOH-DNR Order, or removal of all OOH-DNR identification devices from the person.

AUTOMATIC REVOCACTION: An OOH-DNR Order is automatically revoked for a person known to be pregnant or in the case of unnatural or suspicious circumstances.

DEFINITIONS

Attending Physician: A physician, selected by or assigned to a person, with primary responsibility for the person's treatment and care and is licensed by the Texas Medical Board, or is properly credentialed and holds a commission in the uniformed services of the United States and is serving on active duty in this state. [HSC §166.002(12)].

Health Care Professional: Means physicians, nurses, physician assistants and emergency medical services personnel, and, unless the context requires otherwise, includes hospital emergency department personnel. [HSC §166.081(5)]

Qualified Relative: A person meeting requirements of HSC §166.088. It states that an adult relative may execute an OOH-DNR Order on behalf of an adult person who has not executed or issued an OOH-DNR Order and is incompetent or otherwise mentally or physically incapable of communication and is without a legal guardian, agent in a medical power of attorney, or proxy in a directive to physicians, and the relative is available from one of the categories in the following priority: 1) person's spouse; 2) person's reasonably available adult children; 3) the person's parents; or, 4) the person's nearest living relative. Such qualified relative may execute an OOH-DNR Order on such described person's behalf.

Qualified Witnesses: Both witnesses must be competent adults, who have witnessed the competent adult person making his/her signature in section A, or person's authorized representatives making his/her signature in either Sections B, C, or E on the OOH-DNR Order, or if applicable, have witnessed the competent adult person making an OOH-DNR by nonwritten communication to the attending physician, who signs in Section D. Optionally, a competent adult person, guardian, agent, proxy, or qualified relative may sign the OOH-DNR Order in the presence of a notary instead of two qualified witnesses. Witness or notary signatures are not required when two physicians execute the order by signing Section F. One of the witnesses must meet the qualifications in HSC §166.003(2), which requires that at least one of the witnesses not: (1) be designated by the person to make a treatment decision; (2) be related to the person by blood or marriage; (3) be entitled to any part of the person's estate after the person's death either under a will or by law; (4) have a claim at the time of the issuance of the OOH-DNR against any part of the person's estate after the person's death; or, (5) be the attending physician; (6) be an employee of the attending physician or (7) an employee of a health care facility in which the person is a patient if the employee is providing direct patient care to the patient or is an officer, director, partner, or business office employee of the health care facility or any parent organization of the health care facility.

Report problems with this form to the Texas Department of State Health Services (DSHS) or order OOH-DNR Order/forms or identification devices at (512) 834-6700.

Declarant's, Witness', Notary's, or Physician's electronic or digital signature must meet criteria outlined in HSC §166.011

**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 eighteen (18) years of age or older or a person under eighteen (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.

MEDICAL POWER OF ATTORNEY DESIGNATION OF HEALTH CARE AGENT

I, _____, appoint:

Name: _____
Address: _____
Phone: _____

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

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

DESIGNATION OF ALTERNATE AGENT

(You are not required to designate an alternate agent but you may do so. An alternate agent may make the same health care decisions as the designated agent if the 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: _____
Phone: _____

B. Second Alternate Agent

Name: _____
Address: _____
Phone: _____

The original of this document is kept with:

Name: _____
Address: _____

The following individuals or institutions have signed copies:

Name: _____
Address: _____

Name: _____
Address: _____

DURATION.

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

(IF APPLICABLE) The 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 understand that information contained in the disclosure statement.

(YOU MUST DATE AND SIGN THIS POWER OF ATTORNEY BEFORE A NOTARY PUBLIC OR YOU MAY SIGN IT IN THE PRESENCE OF TWO COMPETENT ADULT WITNESSES.)

[SIGNATURE BEFORE A NOTARY PUBLIC]

I sign my name to this medical power of attorney on the ___ day of _____, 20__ at _____ (City), _____ County, State of _____.

Signature

Printed Name

STATE OF _____ §

COUNTY OF _____ §

This instrument was acknowledged before me on the ___ day of _____, 20__ by _____.

Notary Public, State of _____

Notary's Printed Name

My Commission Expires

OR

[SIGNATURE IN THE PRESENCE OF TWO COMPETENT ADULTS]

I sign my name to this medical power of attorney on the ____ day of _____, 20__ at _____ (City), _____ County, State of _____.

Signature

Printed Name

STATEMENT OF FIRST WITNESS.

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

Signature

Printed Name

Address

Date

STATEMENT OF SECOND 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

Printed Name

Address

Date