



Your Right To Decide

Oklahoma's Advance Directive & Other Health Care Planning Tools

Senior Law Resource Center

What every Oklahoman needs to know about planning for incapacity and staying in control of medical care at the end of life.

Dedicated to Laura Cross, RN, JD, who in both her professional and personal life did so much to improve end-of-life care for patients and their families.

Your Right To Decide: Oklahoma's Advance Directive & Other Health Care Planning Tools was produced in partnership by the Oklahoma Attorney General's Task Force To Improve End-of-Life Care in Oklahoma, the Oklahoma Palliative Care Resource Center, the Senior Law Resource Center and St. John Health System. A special thanks to Lane Wood for her assistance in researching and writing the guide.

Additional copies of this guide may be ordered from the Senior Law Resource Center, P.O. Box 1408, Oklahoma City, OK 73101, (405) 528-0858, FAX (405) 601-2134, info@senior-law.org.

This guide can also be downloaded in PDF format at no cost from www.senior-law.org.

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This guide was one of the outcomes of the Oklahoma Attorney General's Task Force To Improve End-of-Life Care in Oklahoma. The Oklahoma Attorney General's Task Force Report on the State of End-of-Life Health Care 2005 can be downloaded at www.oag.state.ok.us. Enter "End of Life Report" in the Search box.

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Table of Contents

Letter from the Attorney General

Thank you for taking the time to consider carefully your wishes for health care at the end of life. I am proud that this guide is available to Oklahomans to inform us about these difficult decisions.

Working to improve end-of-life care is an important part of my consumer protection role as Oklahoma's Attorney General. This issue was the focus of my term as president of the National Association of Attorneys General. In 2004, I formed a task force of 15 legal and health care professionals and asked them to investigate end-of-life care in Oklahoma. The task force was chaired by myself and three health care experts: Dr. Garry Johnson, M.D., University of Oklahoma College of Medicine; Dr. Carole Kenner, DNS, RNC, FAAN, Dean and Professor of the Oklahoma College of Nursing; and Linda Edmondson, LCSW.

Over the course of a year, task force members and more than 80 advisory committee members heard from panels of experts about issues such as advance directives, nursing facilities and hospice. Their findings and recommendations were published in 2005 and have been the impetus for several important changes in Oklahoma law.

One of the task force's key recommendations was the development of a consumer guide explaining the medical and legal concepts Oklahomans need to understand in order to make informed choices and to ensure their wishes are honored at the end of life. I am pleased that *Your Right To Decide: Oklahoma's Advance Directive & Other Health Care Planning Tools* has now been published and is being made available to Oklahoma citizens.

I deeply appreciate the task force chairs, members, advisory committee members and all those who supported the work of the task force. A special thanks goes out to Jan Slater Anderson, Linda Edmondson, Catheryn Koss, Annette Prince and Lane Wood who developed this consumer guide. Thanks also to the Borchard Foundation Center on Law and Aging, the American Bar Association Commission on Law and Aging, the Senior Law Resource Center and the Hospice Foundation of Oklahoma Affiliated Fund, Inc. for generously providing the funding that made this guide possible.

Sincerely,

Drew Edmondson

W.A. Drew Edmondson

Introduction

No one likes to think about the possibility of losing capacities or becoming severely ill. But the more completely you understand your options and express your own feelings, the easier it will be to engage the support of people you love in bringing peace and meaning to the end of your life. Communicating your preferences about end-of-life treatment will save your family the heartache of having to make decisions for you without knowing your wishes.

In the past, most people died at home after a short illness under the care of a family physician who could do little more than try to keep the patient comfortable. Today, death is often more complicated. Because many previously terminal illnesses are now treatable with advanced medical treatment, it is more common for patients to experience chronic illness over months or years caused by progressive diseases such as dementia, heart disease, cancer or stroke.

Even during the later stages of chronic diseases like these, medical science can often extend a patient's life. However, patients suffering from severe chronic pain, dementia or other conditions that drastically reduce quality of life may feel the burden of continued treatment is too great. This is the point when the patient (if capable), doctor and family need to come together to make decisions about whether to continue curative treatment or to focus on keeping the patient comfortable during the remaining time. These decisions are difficult to make, but knowing the patient's wishes can greatly help to ease this burden.

You can decide how to live the last days of your life, but you must think and talk about these issues with your loved ones and physician ahead of time. Because it is impossible to foresee every situation or complication that might arise, share your values about what makes life worth living, your views about life and death and your end-of-life priorities with your family and doctor so they can respect your wishes in any situation.

About This Guide

This guide will help you better understand treatment options, likely side effects and other medical issues that can arise at the end of life. It also provides some information to help you think about and discuss your views, values and wishes with loved ones and health care providers. Finally, this guide provides practical information about how you can make sure that your wishes are known and carried out.

At the end of this guide are a list of Resources and a Key Terms. There is also a blank Advance Directive that you may choose to complete.

The information presented in this guide is based on Oklahoma law. Each state has its own laws and forms related to end-of-life and incapacity issues.

This guide provides general information and is not intended to serve as legal or medical advice. Please consult a physician and/or attorney for advice regarding your situation.

Medical Treatment Choices

Despite recent advances, the goals of medicine — curing disease, restoring health and maintaining quality of life — cannot always be achieved. Understanding end-of-life treatment options and side effects can help you decide what you would choose.

Types of Medical Treatment

Acute Care

Acute care is provided in a hospital and focuses on providing treatment for a short-term illness or injury until the patient is stabilized or restored to good health. Hospitals are generally designed to cure illness and save lives, and the equipment, procedures and attitudes of the staff often reflect these goals.

Nursing Facility Care (Nursing Homes)

Nursing facility care usually involves long-term care for patients with severe physical weakening and impairment. This includes assistance with personal care activities such as eating, walking and bathing. Nursing care also involves coordinated management of patient care, including social services and activities. Some nursing facilities offer specialized care such as services for patients with Alzheimer's disease, dialysis for kidney disease or tube feeding.

Palliative Care

Palliative care is sometimes referred to as comfort care, advanced illness care or supportive care. The goal of palliative care is to provide the best quality of life for the patient and family during the process of illness, dying and bereavement. The focus of palliative care is on making the patient comfortable, including controlling pain and managing symptoms, rather than on trying to cure the underlying disease.

Hospice Care

Hospice care, a type of palliative care, aims to give a patient and family members a better end-of-life experience by allowing a patient to die at home or in a home-like setting, striving to make the patient comfortable and caring for the emotional needs of the patient and family. Hospice care focuses on relieving the symptoms of persons who are dying and accepts death as a natural part of life.

Hospice care is provided by a multi-disciplinary team of professionals trained to address not only physical symptoms, but also psychological and spiritual needs. Nurses, chaplains and social workers spend time with the patient and the family, often providing support services and bereavement counseling to loved ones for up to a year after the patient dies.

If you are a Medicare beneficiary, hospice is a covered benefit under Part A. Most private insurance plans offer a hospice benefit. If insurance coverage is unavailable or insufficient, you and your family can discuss private pay and payment plans. Many hospice providers will waive or reduce fees for patients who are unable to pay for services. Hospices are required to provide care for all eligible patients regardless of their ability to pay.

If you need assistance finding hospice care, your physician or hospital discharge planner can help you locate hospices in your area. Hospice care providers are also listed in the phone book. Several websites that offer directories of hospice providers are listed in the Resources section at the back of this guide.

Artificial Life-Support Systems

Artificial life-support systems are machines that assist the body to function if the body's natural systems fail. The basic bodily functions that can be sustained artificially include the ability to breathe, to take in nourishment and fluid and to eliminate waste.

Mechanical Ventilation (Respirator)

When a person cannot breathe independently, a machine called a respirator is used to take over breathing. While a respirator can save the life of a patient recovering from an illness or accident, it cannot restore a patient's lungs or prevent the death of a person with an incurable, fatal disease or condition. Patients on respirators cannot speak and have difficulty coughing, so fluids can build up in the lungs, increasing the risk of pneumonia.

Artificially Administered Nutrition and Hydration (Tube Feeding)

When a person cannot eat or drink by mouth, tube feeding is a method of artificially delivering liquids and nutrients. For short-term feeding, a tube is inserted through the patient's nose into the stomach. For long-term feeding, a tube may be surgically inserted directly into the stomach or intestines. Another form of long-term artificial feeding is called total parenteral nutrition, or TPN. Liquid nutrients are given through a tube that goes directly into a large vein near the patient's heart.

Although tube feeding is a short-term substitute for eating by mouth, studies show that tube feeding does not extend life. Some tube feeding procedures can be uncomfortable and may increase the risk of infection and other complications such as irritation where the tube is inserted, diarrhea, bloating or possible liver damage from TPN. Tubes can easily become dislodged and must be repeatedly replaced.

Long-Term Dialysis

Kidneys are internal organs that filter and clean the blood. When kidneys fail, waste and excess fluid accumulate in the blood. Dialysis can take over the function of the kidneys and extend a patient's life. However, complications and infections can occur. Without a kidney transplant, long-term dialysis often must be continued for the remainder of the person's life. The typical dialysis patient receives three treatments a week, and each treatment takes from three to five hours. Dialysis requires a strong, ongoing commitment from the patient, the family and health care professionals. It is not a "cure" for kidney disease; it is a substitute for normal kidney function.

Medical Treatment Choices

Cardiopulmonary Resuscitation (CPR)

When a person stops breathing and his or her heart stops beating, this is called cardiopulmonary arrest. Once the heart stops beating, a person will die within a few minutes unless immediate action is taken. Cardiopulmonary resuscitation (CPR) can be used in an emergency to try to restart heartbeat and breathing. CPR is usually considered to be appropriate when the chance of recovery is reasonably good.

CPR is rarely life-saving when cardiac arrest is due to advanced age or serious illness. CPR should not be administered to patients who have indicated they do not want it. It may also not be appropriate for patients who are very unlikely to recover.

Other Life-Sustaining Treatment

In addition to the life-support systems and the procedures described above, any medication, procedure or treatment that is necessary to sustain a person's life is a life-sustaining treatment. Examples are cardiac medications, blood pressure medicine, pacemakers, chemotherapy and antibiotics.

Making Your Wishes Known

Thinking and Talking About Your Wishes

Determining your end-of-life wishes involves thinking about the fundamental questions of life. What are your spiritual beliefs? What gives you joy and what makes you fearful? Ultimately, what makes life worth living for you?

It is important to reflect on what you would want to happen if you lost capacity or became severely ill. Remember, there is no right answer other than the answer that is right for you.

An important part of this process is talking to loved ones about your wishes. While many people find it difficult to start a conversation about the end of life, having the conversation can be a gift to those who love you. Knowing your preferences will ease their burden of making difficult decisions by giving them the peace of mind of knowing they honored your wishes.

If you are met with resistance, do not give up. If friends and family are not ready to talk, give them a copy of this guide and use it as a starting point for the discussion. Emphasize how important it is to you that these issues are talked about in advance. If you do not feel comfortable insisting, find someone who is willing to advocate on your behalf to encourage the discussion.

Your Right To Decide

If you are of sound mind and at least 18 years old, you have the right to decide what types of medical treatment you do and do not want. Before you make a decision about medical treatment, you have the right to receive the information you need to understand your physical condition and the risks, benefits and alternatives to a proposed treatment. You may express your medical treatment decisions orally or in writing.

Think about whether you would want to have life-sustaining treatment if:

- the treatment would cause pain and was not likely to succeed
- the treatment would prolong your life, but you would be in chronic pain
- you could no longer control bodily functions
- you could no longer recognize family members
- you were bedridden
- you were unable to communicate
- you required around-the-clock care

You may also express your wishes orally or in writing in case you are unable to make decisions for yourself in the future. The following sections of this guide explain the different options for expressing your wishes in advance. Completing an Advance Directive for Health Care is the best way.

It is important for you to know that Oklahoma law presumes you want to be resuscitated if your heart stops or you stop breathing, and you want to receive tube feeding when you cannot take food by mouth unless you have expressed your wishes not to receive such treatment.

Advance Directive for Health Care

An Advance Directive for Health Care is a document used to communicate your health care decisions if you become unable to express those wishes directly. You must be at least 18 years old and of sound mind to complete an Advance Directive.

Oklahoma's Advance Directive form has three parts: Living Will, Appointment of Health Care Proxy and Anatomical Gifts. These three parts are described in more detail below.

Part I: Living Will

The first section of Oklahoma's Advance Directive allows you to express your treatment preferences if you develop a terminal condition, become persistently unconscious or suffer from an end-stage condition.

A **Terminal Condition** is caused by an illness or injury that is incurable and cannot be reversed. In order to be considered terminal, two physicians must agree that, even with medical treatment, death will likely occur within six months.

A **Persistently Unconscious State or Persistent Vegetative State (PVS)** is a deep and permanent unconsciousness. Patients may have open eyes, but they have very little brain activity and are capable only of involuntary and reflex movements. Confirming a diagnosis of PVS requires many tests that may take several months. Unlike patients with other types of coma, patients in PVS will never "wake up" and regain health. Patients in PVS cannot feel hunger, thirst or pain.

An Advance Directive gives you the chance to:

- decide in advance whether to choose or forego life-sustaining treatment, including tube feeding
- appoint a health care proxy to make medical decisions on your behalf
- elect to donate body parts or your entire body for transplantation or research

An **End-Stage Condition** is a condition caused by injury, disease or illness that results in a gradual and irreversible loss of mental and physical abilities. A person with an end-stage condition may be unable to speak or walk, may be unable to control bowel and bladder functions, may have decreased appetite and difficulty swallowing and eating, and may not recognize loved ones. Examples of end-stage conditions include dementia caused by Alzheimer's disease or severe stroke. Medical treatment of this condition will not improve the patient's chances of recovery.

For each of these three conditions, you can choose to receive all life-sustaining treatment, only tube feeding or no life-sustaining treatment. See the previous section *Medical Treatment Choices* for more information about life-sustaining treatment, including tube feeding.

Other Instructions

The Advance Directive form gives you the option of writing more specific instructions, including describing other conditions in

which you would or would not want life-sustaining treatment. Things you may want to consider addressing in this space include:

- **Pain Management** – You can specify the level and type of pain management care you would like to receive. For example, you may want to authorize the administration of pain medications, including narcotics, without regard to risk of addiction or side effects that may hasten death.
- **Pregnancy** – In the event that you are pregnant, you will be provided with life-sustaining treatment, including artificially administered hydration and nutrition, unless you specifically authorizes in your own words such treatment to be withheld or withdrawn even if pregnant.
- **HIPAA Authorization** – If you are concerned that your health care proxy may have difficulty accessing your medical information, you can write, "I authorize my protected health information in my health record to be disclosed to my health care proxy, who shall be considered a personal representative for HIPAA purposes."
- **Particular Procedures** – You can authorize or decline particular medical procedures or treatments such as blood transfusions, dialysis or antibiotics.
- **Time Limit on Treatment** – You can authorize life-sustaining treatment to be continued for a specific period of time and authorize its withdrawal after that time period. For example, you can authorize life-sustaining treatment until all of your children have the opportunity to travel to you.

A patient who chooses not to receive life-sustaining treatment still receives palliative care to control pain and keep the patient as comfortable as possible.

- **Exceptional Circumstances** – You can specify particular circumstances when you would want different medical treatment, such as to allow time for a religious rite or family members to arrive.
- **Authorization of Hospice** – You can request that you be placed on hospice as soon as it becomes appropriate.
- **People You Do Not Want Involved** –You may wish to name people whom you do not want involved in making decisions on your behalf.

The sample form on the next two pages illustrates how to complete the Living Will section of the Advance Directive form.

If you do not complete the Living Will section of the Advance Directive, your health care proxy may make these decisions on your behalf based on what he or she believes you would have wanted.

If you wish to expressly leave these decisions up to your health care proxy, you may write, "I authorize my health care proxy to withhold or withdraw life-sustaining treatment, including artificial hydration and nutrition, if he/she determines that I would decline such treatment under the circumstances."

Your Advance Directive will only be used if your attending physician and another physician determine that you are unable to make medical decisions.

Oklahoma Advance Directive for Health Care

If I am incapable of making an informed decision regarding my health care, I, _____, direct my health care providers to follow my instructions below.

I. Living Will

If my attending physician and another physician determine that I am no longer able to make decisions regarding my health care, I direct my attending physician and other health care providers, pursuant to the Oklahoma Advance Directive Act, to follow my instructions as set forth below:

(1) Choose whether you would want life-sustaining treatment and/or tube feeding if you have a terminal illness that even with treatment will likely result in death within 6 months.

(1) If I have a terminal condition, that is, an incurable and irreversible condition that even with the administration of life-sustaining treatment will, in the opinion of the attending physician and another physician, result in death within six (6) months:

(Initial only one option)

Initial here if you DO NOT want life-sustaining treatment, but you DO want tube feeding.

_____ I direct that my life not be extended by life-sustaining treatment, except that if I am unable to take food and water by mouth, I wish to receive artificially administered nutrition and hydration.

Initial here if you DO NOT want life-sustaining treatment and you DO NOT want tube feeding.

_____ I direct that my life not be extended by life-sustaining treatment, including artificially administered nutrition and hydration.

Initial here if you DO want BOTH life-sustaining treatment and tube feeding.

_____ I direct that I be given life-sustaining treatment and, if I am unable to take food and water by mouth, I wish to receive artificially administered nutrition and hydration.

Initial here only if you have written instructions regarding treatment or tube feeding in the event of a terminal illness.

(Initial only if applicable)

_____ See my more specific instructions in paragraph (4) below.

(2) Choose whether you would want life-sustaining treatment and/or tube feeding if you become persistently unconscious.

(2) If I am persistently unconscious, that is, I have an irreversible condition, as determined by the attending physician and another physician, in which thought and awareness of self and environment are absent:

(Initial only one option)

Initial here if you DO NOT want life-sustaining treatment, but you DO want tube feeding.

_____ I direct that my life not be extended by life-sustaining treatment, except that if I am unable to take food and water by mouth, I wish to receive artificially administered nutrition and hydration.

Initial here if you DO NOT want life-sustaining treatment and you DO NOT want tube feeding.

_____ I direct that my life not be extended by life-sustaining treatment, including artificially administered nutrition and hydration.

Initial here if you DO want BOTH life-sustaining treatment and tube feeding.

_____ I direct that I be given life-sustaining treatment and, if I am unable to take food and water by mouth, I wish to receive artificially administered nutrition and hydration.

Initial here only if you have written instructions regarding treatment or tube feeding in the event you become persistently unconscious.

(Initial only if applicable)

_____ See my more specific instructions in paragraph (4) below.

(3) If I have an end-stage condition, that is, a condition caused by injury, disease, or illness, which results in severe and permanent deterioration indicated by incompetency and complete physical dependency for which treatment of the irreversible condition would be medically ineffective:

(Initial only one option)

_____ I direct that my life not be extended by life-sustaining treatment, except that if I am unable to take food and water by mouth, I wish to receive artificially administered nutrition and hydration.

_____ I direct that my life not be extended by life-sustaining treatment, including artificially administered nutrition and hydration.

_____ I direct that I be given life-sustaining treatment and, if I am unable to take food and water by mouth, I wish to receive artificially administered nutrition and hydration.

(Initial only if applicable)

_____ See my more specific instructions in paragraph (4) below.

(4) OTHER. Here you may:

(a) describe other conditions in which you would want life-sustaining treatment or artificially administered nutrition and hydration provided, withheld, or withdrawn,

(b) give more specific instructions about your wishes concerning life-sustaining treatment or artificially administered nutrition and hydration if you have a terminal condition, are persistently unconscious, or have an end-stage condition, or

(c) do both of these:

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____
Initial

(3) Choose whether you would want life-sustaining treatment and/or tube feeding if you have an incurable condition causing you to be incompetent and completely dependent.

Initial here if you DO NOT want life-sustaining treatment, but you DO want tube feeding.

Initial here if you DO NOT want life-sustaining treatment and you DO NOT want tube feeding.

Initial here if you DO want BOTH life-sustaining treatment and tube feeding.

Initial here only if you have written instructions regarding treatment or tube feeding in the event you have an end-state condition.

(4) This is an optional section where you can give more specific instructions about your wishes. See pages 8-9 for ideas and suggested language.

If you chose to, write your specific instructions here.

Initial here only if you have written specific instructions.

Advance Directive for Health Care

Part II: Appointment of Health Care Proxy

When you are unable to do so, your health care proxy is the person who will make all health care decisions (not just life-sustaining treatment decisions) that you would make if you were able. This includes having access to your medical information and talking with the health care providers about treatment options. It may include seeking second opinions from other physicians or consenting to or refusing medical tests or treatments, including life-sustaining treatment. It also may include decisions about placing you in a health care facility, selecting hospice, or transferring you into the care of another physician.

When deciding who to name as your health care proxy, consider the following criteria:

- Can the person legally act as your health care proxy?
- Is the person willing?
- Will the person be available when needed?
- Will the person be able to carry out your wishes?
- How well does this person know you and understand your values?
- Is this someone you trust?
- Is this person willing to talk with you about sensitive issues?
- Will this person be able to ask medical personnel questions and advocate on your behalf?
- Will this person be able to handle conflict?

When making these decisions, your health care proxy is bound to follow the instructions you gave in the Living Will section of your Advance Directive. He or she must also honor what is known about your wishes when making decisions on your behalf.

Oklahoma's Advance Directive form allows you to choose one health care proxy and one alternate health care proxy. Your health care proxy must be at least 18 years old and of sound mind. He or she should also be someone you trust, who knows you well and who will honor your wishes. Usually a spouse or adult child is appointed. However, sometimes a spouse or adult child may not feel able to make difficult decisions. If your first proxy is your age or older, you may want to choose a younger person as your alternate proxy.

Once you choose your proxies, make sure they know your wishes and understand the values that guide your thinking about life, death and dying. Be sure there is a clear understanding between you and your proxies about what treatment you would prefer.

Part III: Anatomical Gifts

The third section of the Advance Directive form gives you the option of donating your entire body or designated body parts for transplantation or research.

You or your family will not be charged for organ or tissue donation. You or your estate may still be responsible for your other medical and funeral costs.

Advance Directive for Health Care

II. My Appointment of My Health Care Proxy

If my attending physician and another physician determine that I am no longer able to make decisions regarding my health care, I direct my attending physician and other health care providers pursuant to the Oklahoma Advance Directive Act to follow the instructions of _____, whom I appoint as my health care proxy. If my health care proxy is unable or unwilling to serve, I appoint_____ as my alternate health care proxy with the same authority. My health care proxy is authorized to make whatever health care decisions I could make if I were able, except that decisions regarding life-sustaining treatment and artificially administered nutrition and hydration can be made by my health care proxy or alternate health care proxy only as I have indicated in the foregoing sections.

If I fail to designate a health care proxy in this section, I am deliberately declining to designate a health care proxy.

Here you can name a person and an alternate person to make health care decisions for you if you are unable to.

Write the first and last name of your health care proxy.

Write the first and last name of your alternate proxy.

Medical schools and research facilities study bodies to educate students and better understand the effects of disease. Generally, you cannot donate your body for medical research if you also wish to donate your organs for transplantation.

Bodies donated for research will eventually be cremated by the institution. You may request that the ashes (called cremains) be returned to your family, scattered by the institution or included in a group interment. The body cannot be returned for burial.

There are thousands of people on waiting lists for organ transplants. Skin, bone marrow and even eyes can also be donated to help people suffering from illness or injury. Be aware that it may be necessary to place a donor on a breathing machine temporarily to keep blood flowing to the organs. An organ donor can still have an open casket and be buried. Most religions support organ and tissue donation as a charitable act.

You are never too old to be an organ or tissue donor. Each donor will be evaluated for suitability when the occasion arises. Some medical conditions will make a potential donor ineligible, including HIV/AIDS, active cancer or systemic infection.

Organ and tissue donation will only occur after death. Death is defined as either the point at which all circulation and breathing functions have permanently stopped or at the time all brain functions have permanently stopped. Being an organ or tissue donor will in no way affect the medical care you receive while you are alive.

If you would like to donate your body to science, you should contact the medical organization of your choice to make arrangements in advance. Information about how to make these arrangements can be found in the Resources section at the back of this guide.

Advance Directive for Health Care

Part III Anatomical Gifts is an optional section.

Initial next to transplantation if you want to be an organ donor.

Initial next to advancement of medical science and/or dental science if you want to donate your body or body parts for research or education.

Initial here if you want to donate your entire body.

Initial here if you want to specify which parts you want to donate.

Only if you have opted to specify which parts to donate, initial next to each part that you would like to donate.

III. Anatomical Gifts

Pursuant to the provisions of the Uniform Anatomical Gift Act, I direct that at the time of my death my entire body or designated body organs or body parts be donated for purposes of:

(Initial all that apply)

_____ transplantation

_____ advancement of medical science, research, or education

_____ advancement of dental science, research, or education

Death means either irreversible cessation of circulatory and respiratory functions or irreversible cessation of all functions of the entire brain, including the brain stem. If I initial the "yes" line below, I specifically donate:

_____ My entire body

or

_____ The following body organs or parts:

_____ lungs	_____ blood/fluids	_____ brain
_____ pancreas	_____ arteries	_____ bones/marrow
_____ kidneys	_____ liver	_____ tissue
_____ skin	_____ heart	_____ eyes/cornea/lens

How To Complete an Advance Directive

In order for your doctors or hospital workers to be legally required to follow your Advance Directive, it must meet certain requirements. You must be of sound mind and at least 18 years old when you complete the Advance Directive.

Mark each of your choices with your initials (do not use checkmarks). Your Advance Directive must be signed by you and two witnesses who are 18 years of age or older, are not related to you and will not inherit from you. You do not need an attorney to execute an Advance Directive. An Advance Directive does not need to be notarized.

What To Do With Your Advance Directive

Once you have completed your Advance Directive, keep a copy in a place where it can be easily found. Consider putting one copy on your refrigerator and another copy in your glove compartment. Do not keep your Advance Directive in a safe deposit box or

locked away. You may also want to carry a card indicating you have an Advance Directive, where a copy can be located and the contact information for your physician and health care proxies.

Give copies of your Advance Directive to your health care proxy and alternate proxy. You may want to give them any notes you have made about your wishes.

Give a copy to your physician who will make it a part of your medical record. Make sure your physician is willing to comply with your wishes. Oklahoma law requires physicians and other health care providers to promptly inform you if they are not willing to comply. You may want to give a copy to your attorney, if you have one.

If you live in an assisted living facility or nursing home, give a copy to a staff member who can make it a part of your file.

Advance Directive forms are widely available at no charge from hospitals, nursing homes, hospice organizations, home health agencies and Area Agencies on Aging. Oklahoma Advance Directive forms can also be downloaded for free from the following websites:

- www.okbar.org
- http://okpalliative.nursing.ouhsc.edu
- www.senior-law.org

Printed Advance Directive forms can be ordered at no charge from the Department of Human Services by fax at (405) 524-9633.

How To Change or Revoke an Advance Directive

The best way to make changes to an Advance Directive is to complete a new form. You may attach written changes to the original document if those changes are also signed and witnessed in a similar manner as an Advance Directive form. Do not alter the original document. Altering the original document may invalidate it because those changes would not be witnessed as required.

You can revoke all or part of your Advance Directive at any time and in any manner that indicates your intention to revoke. Tell your attending physician that you revoked your Advance Directive and to make your revocation part of your medical record. It is best to document your revocation by writing "I Revoke" across each page and keeping it for your records. Tell everyone who has a copy that it has been revoked and ask them to destroy their copies.

Completing a new Advance Directive automatically revokes your old one. Remember to give copies of your new Advance Directive to your physician, proxies and the other people listed above.

When To Review Your Advance Directive

Review your Advance Directive every few years, especially after a major life change such as the death of a loved one, divorce or a diagnosis of a serious medical condition. If your current Advance Directive no longer reflects your wishes, complete a new one.

Additional Planning Options

Durable Power of Attorney

A Durable Power of Attorney is a legal document that gives another person, called an "attorney-in-fact," the authority to make decisions and take actions on your behalf in the event you are unable to act for yourself. Depending on how it is drafted, a Durable Power of Attorney can grant the authority to handle business, financial, personal care, and most medical matters. It is a useful incapacity planning tool that can prevent the need for a guardianship.

However, a Durable Power of Attorney cannot give someone the authority to make life-sustaining treatment decisions. Only an Advance Directive for Health Care can do that. Therefore, a Durable Power of Attorney cannot be used in place of an Advance Directive for Health Care.

The same considerations used to choose a health care proxy apply to choosing an attorney-in-fact. (See page 12.) If you complete both an Advance Directive and a Durable Power of Attorney, it is strongly recommended that you name the same person(s). Generally, it is a good idea to consult an attorney about drafting and executing a Durable Power of Attorney.

If you become unable to make decisions regarding your medical treatment and have not executed an Advance Directive indicating your wishes or appointing a Health Care Proxy, your physician may consult with your immediate family in making decisions on matters of routine care. However, Oklahoma law severely limits others' ability to refuse or withdraw life-sustaining treatment or tube feeding on your behalf.

Do-Not-Resuscitate (DNR) Consent

A person may refuse CPR by consenting to a "Do Not Resuscitate" (DNR) order. If you know that you would not want to be resuscitated under any circumstances if your heart stopped or you stopped breathing, you can sign a DNR Consent form. A DNR takes effect immediately when it is signed. Therefore, it is a near death document.

Your doctor or other health care professional can provide you with a DNR Consent form. DNR may also be documented by wearing a DNR necklace or bracelet.

If a DNR is in place, an emergency responder may not perform chest compressions, administer cardiac resuscitation drugs or use electric shock to restore a heartbeat, nor may they breathe for you or insert a tube into your wind pipe to restore breathing. Emergency responders may still clear airways, administer oxygen, position for comfort, splint injured bones, control bleeding, provide pain medication, provide emotional support and contact a hospice or home health agency if either has been involved in your care.

If you change your mind after completing a DNR Consent form, you can easily revoke your consent by letting your family or physician know or by destroying the consent form, necklace or bracelet.

Guardianship & Surrogates

Guardianship

If you become incapacitated and do not have an Advance Directive or Durable Power of Attorney appointing a proxy decision maker, the court may be asked to appoint a legal guardian. A guardian is given power to make decisions about the care of another person, called the "ward."

Guardianships have several major disadvantages. In almost all cases, an attorney is needed to assist with the guardianship petition process. The appointment process is often slow and costly for the patient or family. The guardian is generally required to submit reports to the court regarding the ward's condition and seek the court's permission for major decisions.

The powers of a guardian include only those granted by the court and can never include the power to withhold or withdraw life-sustaining treatment unless the ward executed an Advance Directive when competent or the judge issues a specific order at the time the treatment decision must be made. However, a guardian can be granted the power to sign a DNR Consent form.

For most adults, legal guardianship is an option of last resort for making health care decisions. The best way to ensure that your medical treatment wishes are honored is to complete an Advance Directive.

Children at the End of Life

Children do not have the same rights as adults to make health care decisions for themselves. Decisions for children have to be made by surrogate decisionmakers. In most cases, parents or other close family members may make these decisions for the child.

Surrogates can make decisions based on formal statements signed by the child, an understanding of the child's wishes or substituted judgment based on what the child typically would have done in similar situations. In the case of infants and toddlers, the surrogate may independently determine the best interests of the child.

Generally, if the child is at least 7 or 8 years old and capable, it is best to allow the child to participate in treatment discussions. Even though the child may not be old enough to understand all treatment options, the child should be allowed the opportunity to consent to proposed treatment. Teenagers may have an even greater ability to participate in planning their care and in understanding their treatment options. Minors who are old enough to understand must be consulted regarding a DNR order.

In cases where the family wants to reduce or refuse care when there is a reasonable hope of improvement or survival, Oklahoma Child Protective Services and the law provide for advocacy on behalf of the child's interests. A guardian ad litem may be appointed by the court to represent the child's interests.

Resources

Oklahoma Resources

Department of Human Services, Aging Services Division
(800) 211-2116
www.okdhs.org

Legal Aid Services of Oklahoma
OKC Senior Law Project (405) 557-0014
OKC (405) 488-6825 or (800) 421-1641
Tulsa Hotline (888) 534-5243
www.legalaidok.org

LifeShare Transplant Donor Services of Oklahoma
(800) 826-5433

Lion's Eye Bank
(405) 557-1393

Oklahoma Attorney General's Office
(405) 521-3921 or (918) 581-2885
www.oag.state.ok.us

Oklahoma Bar Association
(405) 416-7000 or (800) 522-8065
www.okbar.org

Oklahoma Department of Health, Long Term Care Services
(405) 271-6868
www.health.state.ok.us/program/ltc

Oklahoma Hospice and Palliative Care Association
(405) 606-4442, (866) 459-4152 or
(800) 356-0622
www.okhospice.org

Oklahoma Mental Health and Aging Coalition
www.omhac.org

Oklahoma Palliative Care Resource Center
http://okpalliative.nursing.ouhsc.edu

Oklahoma State University College of Osteopathic Medicine Body Donor Program
(918) 561-8446

Project for Optimal EMS for Seniors
www.POEMSS.org

Senior Information Line
(800) 211-2116 (or dial 211)

Senior Law Resource Center
(405) 528-0858
www.senior-law.org

Sooner Palliative Care Institute
(405) 271-1491 ext. 49160
www.nursing.ouhsc.edu/SPCI

University of Oklahoma Health Sciences Center Willed Body Program
(405) 271-2424, ext. 46282 or ext. 0

Resources

National Resources

AARP
(866) 295-7277
OK Chapter (405) 632-1945
www.aarp.org/endoflife

Alzheimer's Association
(800) 272-3900
www.alz.org
OK Chapter www.alz.org/alzokar

Alzheimer's Resource Room
www.aoa.gov/alz/index.asp

American Cancer Society
(800) 227-2345
OKC Office (405) 843-9888
Tulsa Office (918) 743-6767
www.cancer.org

Center for Practical Bioethics
(800) 344-3829
www.practicalbioethics.org

Centers for Medicare and Medicaid Services
www.cms.hhs.gov

Eldercare Locator
1-800-677-1116
www.eldercare.gov

Growth House
(415) 863-3045
www.growthhouse.org

Last Acts
(877) 843-7953
www.lastacts.org

Medicare
www.medicare.gov

National Association of Homecare and Hospice Agency Locator
www.nahc.org/agencylocator.html

National Hospice and Palliative Care Organization
(800) 658-8898
www.nhpco.org

On Our Own Terms: Moyers on Dying
www.pbs.org/wnet/onourownterms

Partnership for Caring
(800) 658-8898
www.partnershipforcaring.org

Key Terms

Advance Directive for Health Care: A written document that enables you to state what kinds of life-sustaining treatment you wish to receive or forego if you become able to make your own decisions.

Airway Intubation: Insertion of a tube through the wind pipe to get oxygen into a patient's lungs.

Cardiac Arrest: Absence of an effective heartbeat.

Cardiopulmonary Resuscitation (CPR): Efforts to restore breathing and heartbeat to a patient in cardiac or respiratory arrest.

Defibrillation: Stimulation of the heart with high voltage electrical shock.

Dialysis: Removal of waste products, salts and extra liquid from blood by artificial means when the kidneys fail.

Do Not Resuscitate (DNR) Order: A physician's order not to perform CPR on a patient.

Guardian: A person appointed by a court and given power to make some or all decisions about the care of another person, called the Ward, and/or the Ward's property.

Hospice: Care provided to terminally ill patients and their families by an interdisciplinary team, working in conjunction with a physician, aimed at relieving the physical, emotional and spiritual distress that is often part of the dying process. Hospice care may be delivered in the home, in nursing facilities, in hospitals or in hospice care centers.

Mechanical Ventilation: Use of an artificial breathing machine (respirator).

Palliative Care: Compassionate care that provides medical, emotional, psychological and spiritual support. The goal of palliative care is to meet the needs of patients by ensuring effective pain control and managing the symptoms that cause discomfort.

Persistent Vegetative State: A deep and permanent unconsciousness. Patients may have open eyes, but they have very little brain activity and are capable only of involuntary and reflex movements. Oklahoma's Advance Directive form describes this state as "persistently unconscious."

Persistent Unconsciousness: see Persistent Vegetative State.

Prognosis: Prediction of the probable outcome of a disease or medical condition.

Respiratory Arrest: Inability to breathe on one's own.

Terminal Condition: An incurable condition from which a person will die within six months, even if treatment is administered.

Tube Feeding: A method of artificially delivering liquid and nutrients for patients that cannot eat or drink by mouth. Usually, for short-term tube feeding, a tube (called a nasogastric or "NG" tube) is inserted through the patient's nose and esophagus into the stomach. For long-term feeding, a tube may be inserted directly through the skin into the stomach (called a gastric or "PEG" tube) or into the intestines (called a jejunal or "J" tube).

Oklahoma Advance Directive for Health Care

If I am incapable of making an informed decision regarding my health care, I, _____, direct my health care providers to follow my instructions below.

I. Living Will

If my attending physician and another physician determine that I am no longer able to make decisions regarding my health care, I direct my attending physician and other health care providers, pursuant to the Oklahoma Advance Directive Act, to follow my instructions as set forth below:

(1) If I have a terminal condition, that is, an incurable and irreversible condition that even with the administration of life-sustaining treatment will, in the opinion of the attending physician and another physician, result in death within six (6) months:

(Initial only one option)

_____ I direct that my life not be extended by life-sustaining treatment, except that if I am unable to take food and water by mouth, I wish to receive artificially administered nutrition and hydration.

_____ I direct that my life not be extended by life-sustaining treatment, including artificially administered nutrition and hydration.

_____ I direct that I be given life-sustaining treatment and, if I am unable to take food and water by mouth, I wish to receive artificially administered nutrition and hydration.

(Initial only if applicable)

_____ See my more specific instructions in paragraph (4) below.

(2) If I am persistently unconscious, that is, I have an irreversible condition, as determined by the attending physician and another physician, in which thought and awareness of self and environment are absent:

(Initial only one option)

_____ I direct that my life not be extended by life-sustaining treatment, except that if I am unable to take food and water by mouth, I wish to receive artificially administered nutrition and hydration.

_____ I direct that my life not be extended by life-sustaining treatment, including artificially administered nutrition and hydration.

_____ I direct that I be given life-sustaining treatment and, if I am unable to take food and water by mouth, I wish to receive artificially administered nutrition and hydration.

(Initial only if applicable)

_____ See my more specific instructions in paragraph (4) below.

(3) If I have an end-stage condition, that is, a condition caused by injury, disease, or illness, which results in severe and permanent deterioration indicated by incompetency and complete physical dependency for which treatment of the irreversible condition would be medically ineffective:

(Initial only one option)

_____ I direct that my life not be extended by life-sustaining treatment, except that if I am unable to take food and water by mouth, I wish to receive artificially administered nutrition and hydration.

_____ I direct that my life not be extended by life-sustaining treatment, including artificially administered nutrition and hydration.

_____ I direct that I be given life-sustaining treatment and, if I am unable to take food and water by mouth, I wish to receive artificially administered nutrition and hydration.

(Initial only if applicable)

_____ See my more specific instructions in paragraph (4) below.

(4) OTHER. Here you may:

(a) describe other conditions in which you would want life-sustaining treatment or artificially administered nutrition and hydration provided, withheld, or withdrawn,

(b) give more specific instructions about your wishes concerning life-sustaining treatment or artificially administered nutrition and hydration if you have a terminal condition, are persistently unconscious, or have an end-stage condition, or

(c) do both of these:

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____
Initial

II. My Appointment of My Health Care Proxy

If my attending physician and another physician determine that I am no longer able to make decisions regarding my health care, I direct my attending physician and other health care providers pursuant to the Oklahoma Advance Directive Act to follow the instructions of _____, whom I appoint as my health care proxy. If my health care proxy is unable or unwilling to serve, I appoint_____ as my alternate health care proxy with the same authority. My health care proxy is authorized to make whatever health care decisions I could make if I were able, except that decisions regarding life-sustaining treatment and artificially administered nutrition and hydration can be made by my health care proxy or alternate health care proxy only as I have indicated in the foregoing sections.

If I fail to designate a health care proxy in this section, I am deliberately declining to designate a health care proxy.

III. Anatomical Gifts

Pursuant to the provisions of the Uniform Anatomical Gift Act, I direct that at the time of my death my entire body or designated body organs or body parts be donated for purposes of:

(Initial all that apply)

_____ transplantation

_____ advancement of medical science, research, or education

_____ advancement of dental science, research, or education

Death means either irreversible cessation of circulatory and respiratory functions or irreversible cessation of all functions of the entire brain, including the brain stem. If I initial the "yes" line below, I specifically donate:

_____ My entire body

or

_____ The following body organs or parts:

_____ lungs	_____ blood/fluids	_____ brain
_____ pancreas	_____ arteries	_____ bones/marrow
_____ kidneys	_____ liver	_____ tissue
_____ skin	_____ heart	_____ eyes/cornea/lens

IV. General Provisions

a. I understand that I must be eighteen (18) years of age or older to execute this form.
b. I understand that my witnesses must be eighteen (18) years of age or older and shall not be related to me and shall not inherit from me.
c. I understand that if I have been diagnosed as pregnant and that diagnosis is known to my attending physician, I will be provided with life-sustaining treatment and artificially administered hydration and nutrition unless I have, in my own words, specifically authorized that during a course of pregnancy, life-sustaining treatment and/or artificially administered hydration and/or nutrition shall be withheld or withdrawn.
d. In the absence of my ability to give directions regarding the use of life-sustaining procedures, it is my intention that this advance directive shall be honored by my family and physicians as the final expression of my legal right to choose or refuse medical or surgical treatment including, but not limited to, the administration of life-sustaining procedures, and I accept the consequences of such choice or refusal.
e. This advance directive shall be in effect until it is revoked.
f. I understand that I may revoke this advance directive at any time.
g. I understand and agree that if I have any prior directives, and if I sign this advance directive, my prior directives are revoked.
h. I understand the full importance of this advance directive and I am emotionally and mentally competent to make this advance directive.
i. I understand that my physician(s) shall make all decisions based upon his or her best judgment applying with ordinary care and diligence the knowledge and skill that is possessed and used by members of the physician's profession in good standing engaged in the same field of practice at that time, measured by national standards.

Signed this _____ day of _____, 20 ___.

_____
Signature

_____
City of

_____
County, Oklahoma

_____
Date of birth (Optional for identification purposes)

The advance directive was signed in my presence.

_____ _____
Signature of Witness Signature of Witness

_____, OK _____, OK
Residence Residence

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Oklahoma Grandparents' Legal Guide

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