

## You Have the Right to Decide: Expressing Your Health Care Wishes

Recent national events confirm that no adult is too young or old to think about the difficult medical decisions required when a serious illness or injury occurs. Advances in medical technology now enable individuals to survive illnesses and injuries that previously would have been fatal. These advances may be a blessing for many, but they raise questions about the quality of life as it is prolonged.

Health care decision making can be stressful to discuss. Most people don't like to think about increasing dependency, not being healthy, or not being capable of making their own decisions. Many individuals feel that clarifying and discussing their preferences and wishes about health care is important but put it off to do later. It's also easy to think that 'it won't happen to me.' Health care decision situations can lead to conflict among family members, feelings of guilt or abandonment, and feeling burdened by not knowing what the person would have really wanted.

Texas law allows competent adults to execute several documents that can provide information and assistance to your loved ones and health care providers if you are unable to make health care decisions for yourself. These include the *Directive to Physicians and Family or Surrogates*, the *Medical Power of Attorney*, and *Do Not Resuscitate Orders*. In addition, many people want to allow for organs to be donated at the time of their death. This fact sheet will provide information and answer questions about all four of these topics.

### Directive to Physicians and Family or Surrogates

The Directive to Physicians and Family or Surrogates is commonly called a 'living will.' The purpose of the Directive to Physicians is to tell health care providers whether you want life-sustaining procedures withheld or withdrawn if you have a terminal or irreversible condition. The Directive does not become effective until your doctor examines you and states in writing that you have a terminal or irreversible condition, which is fatal without life-sustaining treatment (such as medication, mechanical breathing, or artificial feeding and water). Comfort care and pain management will still be provided once a Directive is in effect. The Directive also allows you to name someone to make treatment decisions for you if you are unable to participate in decision making. You are also able to list specific treatments you would or would not want to receive in specific circumstances. For example, if you want artificial nutrition and water to be considered a life-sustaining procedure, you must write this on the form and indicate the conditions under which you would want or not want to receive them.

Although the Directive to Physicians is a legal document, it is not necessary to see an attorney to have one drawn up. The Advance Directive Act provides a written form that can be filled in, and signed by you (the person creating the Directive) and by two witnesses. At least one of the two witnesses **cannot** be someone who is related to you by blood or marriage, has a claim against your estate, the person designated to make treatment decisions for you, your attending physician or someone who works for him/her, an employee of the health care facility where you are

receiving care if the employee is involved in providing your direct care, or a person who is involved in the ownership or admissions to the health care facility.

Tell your physician if you have created a Directive to Physicians, and have it made part of your medical record. The Directive is valid until it is revoked. You may revoke the Directive orally or in writing at any time, even in the final stages of a terminal illness. If you revoke the Directive, be sure your physician is told and your decision is noted in your medical record. Your expressed desire to receive medical treatment will at all times take priority over the terms of your Directive.

Copies of the Directive to Physicians forms can be obtained from most health care facilities or can be downloaded (in English and Spanish) from the Texas Partnership for End-of-Life Care website at <http://www.txpec.org/whatsnew/texas.asp>.

### **Medical Power of Attorney**

The Medical Power of Attorney allows you to designate a person to make health care decisions for you if you are unable to make these decisions for yourself. This person is called your Health Care Agent. The Advance Directive Act created a form for the Medical Power of Attorney, which must be used without substantial changes. Before signing the Medical Power of Attorney, you must first sign a disclosure statement outlining your rights under the Medical Power of Attorney and the agent's authority under its' provisions.

The Medical Power of Attorney form must be signed by two witnesses. At least one of the witnesses **cannot** be someone who is related to you by blood or marriage, has a claim against your estate, the person designated to make treatment decisions for you, your attending physician or someone who works

for him/her, an employee of the health care facility where you are receiving care if the employee is involved in providing your direct care, or a person who is involved in the ownership or admissions to the health care facility.

You may name any adult to be your health care agent except your health care provider or residential care provider or an employee of either unless the employee is your relative. Obviously, this person should be someone you trust and have confidence in. It should be someone who knows about your wishes, values, and religious beliefs. Once you decide upon an individual, talk to him/her about what your wishes are regarding your health care and whether or not he/she is willing to serve.

The agent has no authority to act and make decisions until your physician certifies in writing, and files in your medical record, that you lack the capacity to make your own health care decisions. Once this happens, you can still object to any decision made by your health care agent. Your physician and health care agent must make reasonable efforts to inform you about decisions that have been made. If you object, your agent's decisions will not be followed.

Your Medical Power of Attorney remains effective until you revoke it or you regain the capacity to make your own health care decisions. You may revoke the Medical Power of Attorney at any time by notifying the agent or your health care provider orally or in writing. If you execute a new Medical Power of Attorney, all previous ones are revoked. In addition, if your spouse is named as your Health Care Agent and you later divorce, your Medical Power of Attorney is revoked.

Copies of the Medical Power of Attorney can be obtained at most health care facilities or

can be downloaded (in English and Spanish) from the Texas Partnership for End-of-Life Care website at <http://www.txpec.org/whatsnew/texas.asp>.

It is highly recommended that you complete both the Directive to Physicians and the Medical Power of Attorney. While they seem to be similar documents, there are important differences. The Directive to Physicians is limited in scope, addressing only the withholding or withdrawing of life-sustaining procedures when you have a terminal or irreversible condition. The Medical Power of Attorney is broader in scope and includes all health care decisions with only a few exceptions. Your health care agent can act on your behalf to provide information and clarification of your wishes. You are not required to have a terminal or irreversible condition before your health care agent can act on your behalf. In addition, having the Directive to Physicians provides specific guidance to your agent and others about your wishes regarding life-sustaining procedures.

### **Do Not Resuscitate Orders**

A Do Not Resuscitate Order (DNR) allows patients to refuse specific life-saving treatments if the heart stops beating or breathing stops. Any competent adult (age 18 or older) may sign a DNR or issue a verbal request to withhold life-saving treatment. Incompetent adults may have a DNR issued through a medical power of attorney or advanced directive. A DNR may not be signed by anyone under age 18 unless that person has been diagnosed with an irreversible condition. A DNR Order does not mean that you will be denied food, water, or medication.

An Out-Of-Hospital (OOH) DNR is a specific type of DNR telling medical personnel, including ambulance personnel, not to use CPR and other life-saving treatments.

Without a OOH DNR, medical personnel may do everything possible to revive you. An OOH DNR Order only goes into effect if your heart stops or breathing stops while you are not a registered hospital patient.

The Texas Department of State Health Services (DSHS) provides a standard form for OOH DNR Orders. Keep the original form or a copy of the form with you at all times. Also, certain approved bracelets may be worn indicating that you have an OOH DNR Order. You may download the OOH DNR form and information on ordering identification bracelets from the DSHS website (<http://www.dshs.state.tx.us/Layouts/ContentPage.aspx?PageID=35824&id=3983&terms=dnr+form>).

Remember: If your heart or breathing stops and you indicate that you want to be saved, medical personnel will ignore your DNR Order.

### **Organ Donation**

Anyone may indicate their wish to donate their organs—even people under the age of 18 with their parents' consent. Whether or not your organs may be transplanted is determined at the time of death—the deciding factor is physical condition, not age.

Organ donation can happen in several different ways. Some people want to donate their entire body: skin, muscles, organs, and bones. Others may simply want to donate specific organs. You may choose to donate any or all of the following:

Heart	Lungs	Corneas
Bone Marrow	Kidneys	Liver
Heart Valves	Skin	Pancreas
Intestines	Bones	
Connective Tissues		

Donation does not disfigure the body and does not interfere with having a funeral,

including open casket services. The surgical teams take great care to insure that dignity is preserved. The donor's family does not pay for the cost of the organ donation. All costs related to donation of organs and tissues are paid by the recipient.

In Texas, the organ donation registry is maintained by Donate Life Texas, Inc. You may register to become a donor in several ways. Register online or download a paper application form at (<https://www.donatelifetexas.org/about-the-registry/other-ways-to-register>). You can also register when you renew your Texas driver's license or identification card. A 'red donor heart' will be added to your license or card identifying you as an organ donor. Even if you register to become a donor, it is essential that your family know your wishes—discuss your decision with family members and loved ones. Your family may be asked to sign a consent form in order for your donation to occur.

### **Additional Information**

If you are interested in more information on any of these topics, refer to the following references:

Texas Legal Service Center including the Legal Hotline for Texans.  
(<http://www.tlsc.org>).

Texas Department of State Health Services – EMS Trauma Systems  
(<http://www.dshs.state.tx.us/Layouts/ContentPage.aspx?PageID=35824&id=3983&terms=dnr>).

Donate Life Texas  
(<http://www.donatelifetexas.org>).

Texas Partnership for End-of-Life Care  
<http://www.txpec.org>

U.S. Department of Health and Human Services – Donate Life  
(<http://www.organdonor.gov>).

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