



FORT SILL LEGAL ASSISTANCE

OKLAHOMA MEDICAL DIRECTIVE



Q: What is an Advance Directive for Health Care?

A: An Advance Directive for Health Care is a written and witnessed legal document incorporating the language adopted by the Oklahoma legislature regarding certain end of life medical treatments. Persons who possess legally sufficient mental capacity and are 18 years of age or older may sign one. Its purpose is to inform health care providers and one's family of decisions to decline or withdraw certain medical treatments when diagnosed with specified conditions. An Advance Directive for Health Care may include a living will regarding end of life treatments, the appointment of a health care proxy (someone named to make medical decisions for another) and directions for organ donation. It is a very different document than the Medical Power of Attorney and both documents are recommended.

Q: Does the signing of an Advance Directive require witnesses and a notary public?

A: An Advance Directive must be signed before two witnesses who are 18 years of age or older and who will not inherit from the signer. The witnesses verify that the signer understood what he or she was doing and signed willingly. Signing an Advance Directive before a notary public or having it notarized is not required and adds nothing to the document.

Q: What is the living will portion of an Advance Directive?

A: In the living will portion of an Advance Directive one may direct that life-sustaining treatment be provided, withheld, or withdrawn if such treatment would only serve to prolong the process of dying under three specified conditions: (1) if one had a terminal condition, (2) was persistently unconscious or (3) was in the end-stage of a severe and permanent deteriorating illness or condition. As part of the living will one may also direct whether nutrition and hydration are to be artificially administered. One may also add other specific medical instructions regarding such issues as pain medication, dialysis, use of antibiotics and emergency resuscitation. The form also provides the option to leave instructions that all possible treatments should be given to extend life regardless of the prognosis or likelihood of success.

Q: What is the health care proxy portion of an Advance Directive?

A: The proxy section appoints an agent (and an alternate if desired) to make decisions in consultation with physicians about the life-sustaining treatments one is to receive or not receive when unable to make one's own end of life decisions. The person signing the document indicates his or her decision about the artificial administration of nutrition and hydration, dialysis, and any other special medical treatments. It is important that

one's health care proxy and alternate understands in advance what the signer of an Advance Medical Directive wants regarding these issues.

Q: What does "terminal condition" mean?

A: A terminal condition is an incurable, irreversible condition that, even with the administration of life sustaining treatment (such as ventilators, respirators, pacemakers, heart beat stimulators, and drugs to stimulate heart and lungs), will in the opinion of the attending physician and second physician result in death within six months.

Q: What is "life sustaining treatment?"

A: Life sustaining treatment is any medical procedure or intervention, including administration of cardiac and pulmonary resuscitation (commonly called CPR), and the artificial giving of nutrition and hydration through intravenous solutions and nasal-gastric or surgically inserted feeding tubes, which could prolong the process of dying or maintain one in a condition of persistent unconsciousness. It does not include the giving of medication or medical treatment necessary to alleviate pain, nor does the term include the normal consumption of food and water by mouth, or the use of antibiotics to control infection.

Q: What does the term "persistently unconscious" mean?

A: "Persistently unconscious" means an irreversible condition in which thought and awareness of one's self and one's environment are permanently absent. Two physicians are required to confirm the patient is persistently unconscious.

Q: Can I be an organ donor in an advance directive?

A: Yes, the section of the Advance Directive entitled "Anatomical Gifts" is a legally binding organ donation document and allows one to make donation decisions if desired. Recent legislation makes clear that one's family cannot override an individual's decision for organ donation in an Advance Directive.

Q: What happens if an attending physician does not want to comply with the decisions as expressed in an Advance Directive?

A: If a patient completed an Advance Directive and has been diagnosed as terminally ill or persistently unconscious or in the end-stages of a debilitating disease by two or more physicians as defined in the directive, and an attending physician or other health care provider does not want to comply with the instructions in the directive, that doctor is required by law to promptly inform the patient and take all reasonable steps to arrange care by another health care provider who will comply with the directions. If a physician or health care provider refuses to comply with a medical treatment decision made in an Advance Directive (or by the person if that person has decision-making capacity) and refusing would likely result in death, then the physician or health care provider is required by law to comply until transfer to a physician or health care provider willing to comply with the directions can be made. Completing an Advanced Directive does not change a doctor's obligation to provide treatment for your pain or other comfort care.

Q: Is the Advance Directive honored when one is pregnant?

A: No. If the attending physician is aware of the patient's pregnancy, the Advance Directive will not be operative during the pregnancy. Also, in cases where a possibility of pregnancy exists (considering the patient's age and other factors), the physician may be required to determine whether or not a patient is pregnant.

Q: Can one be required to complete an Advance Directive?

A: No. It is illegal for anyone to require another to execute an Advance Directive as a condition of receiving health care services or health insurance coverage. It is also illegal for anyone to modify life insurance coverage or to refuse to issue life insurance

Q: Does the Advance Directive require multiple signatures?

A: No. One is required to initial the choices made multiple times but requires signature only once at the end. Because it is an important legal document, if questions arise they should be discussed with your attorney and/or doctor.

Q: How does an Advance Directive differ from a Do-Not-Resuscitate (DNR) Consent?

A: A DNR Consent is legal document for one purpose only: to direct that CPR (cardiopulmonary resuscitation) not be given under any circumstances if their heart or respiratory function stops. The Advance Directive gives direction for additional health care treatments that may be considered for a patient facing a terminal condition. Legal Assistance prepares only the Advance Directive documents.

Q: Can a signed Advance Directive be revoked?

A: Yes. An Advance Directive may be revoked entirely or in part at any time and in any manner, regardless of mental or physical condition. It can be revoked by destroying the document or by telling the attending physician or any other health care provider or by revoking it verbally before a witness and having the witness inform the attending physician or other health care provider of the revocation.

Q: If more than one Advance Directive was signed, which one will be effective?

A: The most recently signed one will be considered to be the one in effect.

Q: Will a document executed in another state and similar to the Advance Directive for Health Care be honored in this state?

A: Yes. A formal document signed in another state which provides for the withholding or withdrawal of life-sustaining treatment or for the appointment of a proxy or agent to decide about withholding or withdrawing life-sustaining treatment that was signed in compliance with the laws of that state is valid in Oklahoma to the extent it does not exceed the decision-making authorizations under Oklahoma law.

Q: Who should have copies of an Advance Directive?

A: The signer keeps the original, and copies should be made and given to family members, treating and consulting physicians, attorney, and the health care proxy and alternate proxy. One should take copies when being admitted to a hospital or other health care facility to be included in one's medical records. A list should be kept of persons to whom copies have been given so if the Advance Directive is later revoked, all can be contacted and informed of the revocation.

Updated April 2010

If you have questions concerning the information in this fact sheet, please call the Legal Assistance Office (580) 442-5058 or (580) 442-5059. Our hours of operation are Monday, Tuesday, Wednesday and Friday, 0800 – 1600, and Thursdays 1200-1600. The Fort Sill Legal Assistance Office is located on the 4th floor of Building 4700, Hartell Hall on Mow-Way Road.