

ADVANCED DIRECTIVES, LIVING WILL DECLARATIONS

Louisiana law recognizes that all persons have the right to control the decisions that relate to their own medical care. This control includes those decisions which an individual can make to have "life-sustaining" procedures maintained, withheld or withdrawn in the event the person is diagnosed as having a terminal and irreversible condition. In Louisiana the way an individual makes such decisions and communicates the decisions to others is called a "Declaration."

Each competent adult--i.e. each competent person eighteen (18) years of age or older--has the right to make a Declaration. A Declaration is a written, oral or non-verbal communication which expresses the person's wishes regarding the maintaining, withholding or withdrawing of life-sustaining procedures in the event the person is diagnosed as having a terminal and irreversible condition. In other words, you can make a Declaration and instruct your physician and your friends and family to maintain life-sustaining procedures and thereby maintain your life, or you can instruct them to withhold or withdraw such procedures and allow you to die.

You may also use a Declaration to designate another individual to make treatment decisions on your behalf in the event you are unable to do so. Because you may not be able to communicate your desires in the event you have a terminal and irreversible condition, the law allows you to make your Declaration before such unfortunate circumstances exist.

Although it could include many things, basically a life-sustaining procedure is the kind of procedure (including the giving of food and water), which would only prolong the dying process. Such procedures do not include any measure which is necessary to provide comfort. A "terminal and irreversible condition" means what it sounds like and includes:

- A continual profound comatose state with no reasonable chance of recovery.
- A condition because of injury, disease, or illness which will result in death and for which life-sustaining procedures would only postpone death.

You should know that if you fail, for any reason, to make a Declaration, the law will not presume that you desire that life-sustaining procedures be maintained. In fact, the law allows certain other people to make a Declaration for you if you are diagnosed as having a terminal and irreversible condition, unable to act on your own behalf and have not made a Declaration. Such a Declaration could authorize the withholding or withdrawing of life-sustaining procedures.

Sometimes a Declaration is referred to as a "Living Will." Louisiana law provides a suggested form, but it is only that--suggested. You are free to use your own words and you can make your instructions as specific as you desire. The form is not as important as

the content of your Declaration--that is, the law is more concerned with your desires and instructions than with the form of the Declaration.

Your Declaration may be written or it may be made through any non-verbal communication. However you choose to make your Declaration, you must make it in the presence of two (2) witnesses. Any adult person may act as a witness as long as that person is not related to you by blood or marriage AND as long as that person is not entitled to inherit any portion of your estate.

If you make a Declaration, you must notify your physician. It is your responsibility to take care of giving this information to your physician. In addition, you may register your Declaration with the Office of the Secretary of State. However, you are not obligated to do this. To register your Declaration you should send either a certified copy or the original Declaration itself to:

Office of the Secretary of State
PO Box 94125
Baton Rouge, LA 70804-9125

The office now charges \$20 for registration. If you have any questions, you may call the office, (504) 342-4980.

You may revoke a Declaration at any time. To revoke a Declaration you may:

- cancel, deface or destroy the Declaration
- in writing, express your desire to revoke
- through verbal or non-verbal communication, express your desire to revoke
- file a written notice of revocation with the Secretary of State, in the event you registered your Declaration (currently this fee is \$5).

Health Care Power of Attorney

Another form of Advance Directive recognized by Louisiana is the Health Care Power of Attorney. You may use this to appoint someone to make health care decisions on your behalf, but you must expressly state this is your wish and intent.

Memorial Medical Center

It is the policy of Memorial Medical Center that competent adult patients have the right to make decisions concerning their medical care, including the right to accept or refuse treatment and the right to formulate Advance Directives. However, patients are not required to have an Advance Directive in order to receive care or treatment at Memorial.

It is Memorial's policy that when a decision is made, pursuant to a Living Will/Declaration to forgo life-sustaining procedures, the dignity of the individual is to be preserved and measures to foster the patient's comfort, including nursing care, personal hygiene and analgesics, will be maintained.

Sample Living Will/Declaration and Health Care Power of Attorney forms are below. For more assistance, call Pastoral Care at **(504)897-5961** or Social Services, **(504)897-1423**. The American Hospital Association also provides the following resource: www.putitinwriting.org.

Advance Directives

Competent adult patients have the right to make decisions concerning medical care, including the right to accept or refuse treatment and the right to formulate Advance Directives (Living Will/Declarations and Healthcare Power of Attorney). The hospital will honor and comply with the terms of Advance Directives presented to the hospital.

Patients are not required to execute Advance Directives in order to receive care or treatment. When a decision is made pursuant to a Living Will/Declaration to forgo life-sustaining procedures, the dignity of the individual is to be preserved and measures to foster the patient's comfort, including nursing care, personal hygiene, and analgesics, as ordered by the patient's physician, will be maintained.

Living Will/Declaration Form

- 1. Fill in the blanks and check all life-sustaining procedures that you choose to have withheld or withdrawn under the circumstances set forth in the Living Will.
- 2. Sign original Living Will in the presence of two (2) witnesses who are not related to you by blood or marriage and who are not going to inherit from you.
- 3. Give one copy of your Living Will to your physician.
- 4. Give one copy of your Living Will to a friend or relative who can be trusted to produce the Living Will in the event that you are certified by two (2) physicians to be suffering from a terminal and irreversible condition or to be in a continual profound comatose state with no reasonable chance of recovery and that the application of life-sustaining procedures would serve only to prolong artificially the dying process.

State of Louisiana

Parish of _____

Declaration made _____ this day of _____

I, _____, being of sound mind, willfully and voluntarily hereby make known my express wish and directive that my dying shall not be artificially prolonged under the circumstances set forth below and do hereby declare that if, at any time, I should have an incurable injury, disease, or illness and be certified by two (2) physicians (one of whom shall be my attending physician) who have personally examined me and determined that I am suffering from a terminal and irreversible condition, or to be in a continual profound comatose state with no reasonable chance of recovery, and the said physicians determine that the application of life-sustaining procedures would serve only to prolong artificially the dying process, I direct that, except to the extent necessary to give full effect to the provisions of any valid document executed by me providing for the donation of any of my organ(s), such life-sustaining procedures be withheld or withdrawn and that I be permitted to die naturally with only the administration of medication or the performance of any medical procedures deemed necessary to provide me with comfort care.

The life-sustaining procedures I choose to have withheld or withdrawn include but are not limited to:

(check all that apply)

- heart-lung resuscitation (CPR)
- mechanical ventilator (respirator)
- tube feedings (food and water delivered through a tube)
- intravenous feedings (nutrition or fluids through an IV tube)
- surgery
- other _____

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

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

This declaration is made and signed by me in the presence of the undersigned witnesses who are not related to me by blood or marriage and who do not stand to inherit from me.

Signature of Declarant

The declarant is known to me and I believe the declarant to be of sound mind.

Witness

Date

Witness

Date

Power of Attorney For Healthcare Decisions

- 1. Fill in all blanks including home address and telephone number of those whom you are authorizing to make healthcare decisions for you.
- 2. Sign in the presence of two (2) witnesses.
- 3. Give to the person named in your document.

State of Louisiana

Parish of _____

I, _____, being of sound mind do hereby designate
(name) _____ of (address, city, state zip)

_____,
(telephone) _____ to serve as my attorney-in-fact with full
authority to healthcare and treatment decisions for me, including decisions
concerning surgery, medical expenses, hospitalization, selection of physicians,
nursing home residency and medications, in the event that I am determined by my
physician to be physically or mentally incapable of making such decisions.

Such attorney has full authority to make such decisions as fully, completely and
effectually, and to all intents and purposes with the same validity as if such
decisions had been personally made by me. It is my understanding and intention
that decisions concerning the withholding or withdrawal of life-sustaining
procedures are not governed by the Power of Attorney but may be governed by a
duly executed Living Will/Declaration.

This done and signed this _____ day of _____, 20_____

Signature of Declarant

Printed Name

Declarant's Address

Witness Signature

Printed Name

Witness Signature

Printed Name