

Oklahoma Advance Directive for Health Care Information Sheet

The Oklahoma Advance Directive for Health Care is a document that allows you to state your treatment care wishes, ahead of time, in the event that you are incapable of making informed decisions regarding your health care in specific future circumstances. In addition, the document allows you to appoint somebody to make medical decisions for you if you are unable to, and allows you to make anatomical gifts after your death.

If you have an Advance Directive from another state, it may not be fully recognized in Oklahoma. It is best to complete an Oklahoma Advance Directive for Health Care when you move to Oklahoma.

The Advance Directive has three sections, each described below. You do not have to complete all sections, but most people do.

Section 1: The Living Will

The Living Will section allows you to state your wishes about what, if any, life sustaining treatment you would like to receive should you develop one of three irreversible medical conditions.

The three conditions are:

- You have a terminal condition that is incurable and irreversible and is likely to result in death within six months, even with life-sustaining treatment.
- You are persistently unconscious, an irreversible condition in which you have no thought or awareness of self or environment.
- You have reached the end stage of an irreversible condition that was caused by injury, disease, or illness resulting in severe and permanent deterioration marked by mental incompetency and complete physical dependency for which treatment would be medically ineffective.

For each of the above conditions, you have three options to consider. You may initial one option for each section. The three options are as follows:

- To receive only artificially administered nutrition and hydration, but no other life-sustaining treatment.
- To receive neither artificially administered nutrition and hydration nor any other life-sustaining treatment.
- To receive both artificially administered nutrition and hydration and all other life-sustaining treatment.

Regardless of your selections, your doctors are required to provide treatment for pain and other comfort care.

There is also a subsection (paragraph 4) where you can provide additional information in your own words. You may use this to provide more specific instructions about your wishes for any or all of the three scenarios. You may also use this section to provide directions about other conditions in which you would want life-sustaining treatment and/or artificially administered nutrition and hydration provided, withheld, or withdrawn. You may also use this paragraph to give your health care proxy authority to act in accordance with his/her best judgment instead of selecting specific options. Some examples of uses are included in the brochure we have included as part of the packet, and may include instructions about specific procedures, use of antibiotics, treatment for certain periods of time, etc. You must also use this section to state that you want your wishes to apply should you be pregnant.

Important Notes about the Living Will

- Under Oklahoma law, you may choose to restrict life-sustaining treatment using the Living Will. If you do so, your health care proxy, and any statutory surrogates absent appointment of a proxy, must follow those wishes.
- There may be disagreement about the care you would want, primarily due to lack of a living will and lack of clear evidence of your preferences. If you have not appointed a healthcare proxy, and the statutory surrogate rules become activated (see notes to healthcare proxy below) disagreements may result in a court appeal.

During any court appeal process, medical personnel and facilities must keep you alive through all means possible, including placement of a feeding tube, use of a ventilator, and other life sustaining measures, regardless of your condition.

- Oklahoma law permits doctors and medical facilities to refuse to follow your advance directive. However, if your doctor or medical facility is unwilling to follow your medical directive, he or she must locate a new doctor (and, if necessary, a new facility) for you who will follow your directives.
- If you are pregnant when one of the three scenarios occurs, you will be given all life-sustaining treatment, regardless of what option you selected, UNLESS you have written in the specific instructions section (paragraph 4) that you want your elections to apply even if you are pregnant.
- You may elect to have the person you appoint as your health care proxy determine your treatment under one or more of the scenarios, instead of selecting options now. To do so, you MUST state this in the specific instructions section (paragraph 4), and you must appoint a health care proxy in Section Two of the Advance Directive.

Section 2: Appointment of Health Care Proxy

This section allows you to appoint someone to make health care decisions on your behalf if you become unable to make decisions regarding your treatment. The health care proxy appointment becomes valid *whenever* you are unable to make medical decisions, and does *not* require that you be in one of the three scenarios described in the living will section. The proxy powers are broad – including power to consult with your doctors, to admit you to medical facilities, to make medical decisions, and to hire and fire medical personnel.

You may appoint one person and an alternate in the event the first person is unwilling or unable to act on your behalf.

- If you have selected options for care in the Living Will, your health care proxy must follow your stated wishes. However, by not selecting options in one or more scenarios in the living will and by specifically so stating in Paragraph 4 of the living will, you may authorize your proxy to make final decisions based on his/her assessment of your best interests under those circumstances.

Important Notes about the Health Care Proxy

- Prior to November 2017, Oklahoma law did not provide for another person to make health care decisions for you unless you had completed the proxy appointment.

However, starting in November 2017 the state specified who may make such decisions, absent a proxy appointment. The broad outline of the new rules include the following:

- It has laid out a statutory hierarchy of default surrogates as follows:
 - 1) Court appointed guardian
 - 2) Health Care Proxy
 - 3) Durable Power of Attorney, subject to limitations
 - 4) Patient's legal spouse
 - 5) Adult Children of the patient
 - 6) Parents of the patient
 - 7) Adult Siblings
 - 8) Other adult relatives of the patient in order of kinship
 - 9) Close friends of the patient, who have maintained regular contact sufficient to be familiar with the patient's personal values.

- Within each class of surrogate, if there is disagreement, majority rules.
- There are a few exceptions to who can be a surrogate, primarily related to convictions for felony or misdemeanor abuse or exploitation
- Any person serving as a surrogate must make treatment decisions based on the patient's wishes, if known, or consistent with the patient's values.
- However, the health care provider or any member of another class may petition a court for a different treatment decision if they feel that the proposed decision does not meet the standards of the law, and request that someone else be appointed to have authority for decisions. Pending resolution of any court appeal, the patient must be provided with care, without which would likely result in or hasten the death of the patient.

Section 3: Anatomical Gifts

This section allows you to donate organs and tissue after you die, for the purposes of transplantation; therapy; or science, research, and education.

Donation of tissue and organs is coordinated centrally in Oklahoma. You may designate your blanket willingness to donate organs and tissue through the Department of Motor Vehicles, through registration with LifeShare Oklahoma, or through this section of the Advance Directive.

If you want to limit the organs you are willing to donate, or wish to limit the purposes of donation, you can make these distinctions in this section and/or through direct registration with LifeShare Oklahoma.

If you want to donate your entire body to a university or institution for science, research, and education, you must make separate arrangements with the institution ahead of time, using their application process. Certain restrictions may apply, and acceptance is contingent on need, among other things. We can provide further information on the programs at OSU and OU.

Completing the Advance Directive

Sign the document in front of two witnesses over age eighteen, who must not be related to you, must not be your medical care providers, and must not be in position to benefit from your illness or death. The witnesses also sign. The Advance Directive does not need to be notarized.

The Advance Directive is effective unless or until you revoke it or replace it with a new one.

Your doctors and medical providers must have a copy of the Advance directive, to be effective. Most experts recommend that you give copies to your medical providers, to the person you designate as Health Care Proxy, and to your family members. They also recommend that it be easily available in case of emergency, including having it on your refrigerator door, in the glove compartment of your vehicle, etc. It is helpful to keep a list of the people to whom you have given a copy.

Revised 4.2019 to reflect 2017 change in Oklahoma law.