

This selection is excerpted from the publication:

“Your Right to Decide, Oklahoma’s Advance Directive and Other Health Care Planning Tools”

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The Senior Law Resource Center has since gone out of existence. However, the publications produced by them, including the one excerpted here, are still available (as of February 2019) at this website:

<https://sites.google.com/site/okseniorlaw/Home/publications-and-forms>

Medical Treatment Choices

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.

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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

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

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.

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

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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.”

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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.

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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.

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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:

<input type="checkbox"/> lungs	<input type="checkbox"/> blood/fluids	<input type="checkbox"/> brain
<input type="checkbox"/> pancreas	<input type="checkbox"/> arteries	<input type="checkbox"/> bones/marrow
<input type="checkbox"/> kidneys	<input type="checkbox"/> liver	<input type="checkbox"/> tissue
<input type="checkbox"/> skin	<input type="checkbox"/> heart	<input type="checkbox"/> 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

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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.