

# Advance Directives

**What are Advance Directives?** They are a set of legal documents that you make in *advance* to direct physicians, family members and others on actions that should or should not be taken in your behalf when you can't communicate your wishes due to incapacity or illness. Family members often have different opinions about what they think is best for you, and Advance Directives can help to lessen conflict. Advance directives are:

- free – they do not require an attorney to complete; and
- remain in effect until you change or revoke them.

You must be competent when you *make* an Advance Directive, but competency is not required to *revoke* a Directive. You can change your mind at any time.

**Who will make decision for me if I don't have Advance Directive(s)?** If you are in a hospital, nursing home or similar facility and are unable to communicate your wishes for medical treatment or end-of-life care, the following people can provide consent for your treatment (*in order of priority*):

- your spouse;
- your adult child (if your other adult children agree on that person as the sole decision maker), or a majority of your reasonably available adult children;
- your parents;
- a person you clearly identified to act for you before you became incapacitated;
- your nearest living relative or member of the clergy.

In case of disagreement, the judge of the probate court will decide.

**What kinds of Advance Directives are available?** Here are the most commonly used:

Directive to Physicians and Family or Surrogates – The Directive to Physicians is sometimes called a 'living will'. It states your wishes about withdrawing or withholding life sustaining procedures if your condition is terminal or irreversible and death is imminent, as certified by two physicians.

Medical Power of Attorney – A Medical Power of Attorney allows you to name a person you trust as the agent who is authorized to make medical decisions for you when your doctor determines that you are unable to make your own treatment decisions. It is effective only during the period of your incapacity. If you regain the ability to make decisions, your agent automatically loses the power to make medical decisions in your behalf.

Out-of-Hospital Do-Not-Resuscitate (DNR) – An Out-of-Hospital DNR tells emergency medical professionals not to resuscitate you and allow you to die a natural death, but it does not affect treatment designed to make you more comfortable or to reduce your pain. Emergency medical treatment is designed to stabilize you until you can be transferred to a medical facility. Emergency medical personnel can only honor the Out of Hospital DNR, not the Directive to Physicians or a Medical Power of Attorney, which are in effect only when you are under the care of a physician.

Durable Power of Attorney – A Durable Power of Attorney gives the person named as your agent the power to make decisions about your property or finances when you are unable to do so. It does not authorize the agent to make medical or treatment decisions for you.

☛ The Texas Department of Aging and Disability Services has free forms and instructions for Advance Directives: [www.dads.state.tx.us/news\\_info/publications/handbooks/advancedirectives.html](http://www.dads.state.tx.us/news_info/publications/handbooks/advancedirectives.html)

**Note:** Texas law allows for a person's signature to be acknowledged by a notary instead of witness signatures and for digital or electronic signatures on the Directive to Physicians, Out-of-Hospital DNR and the Medical Power of Attorney if certain requirements are met.

**What do I do with the Advance Directives?** Keep the originals and give copies to your doctor to put in your file. Give a copy of the Medical Power of Attorney to your agent and to the person you named in your Directive to Physicians.