

# WHAT IS AN ADVANCE DIRECTIVE FOR HEALTH CARE (LIVING WILL)?



## Q: What is an Advance Directive for Health Care?

**A:** An Advance Directive for Health Care is a written legal document which allows you to instruct your attending physician whether or not you wish to be given life-sustaining treatments and artificially administered nutrition (food) and hydration (water) and to give other medical directions that impact the end of life. Its purpose is to recognize your right to control some aspects of your medical care and treatment, primarily the right to decline medical treatment or direct that it be withdrawn even if death ensues. An Advance Directive for Health Care may include a living will, the appointment of a health care proxy (a proxy is a person authorized to act for another) and directions for organ donation.

## Q: Who can sign an Advance Directive for Health Care?

**A:** Any person of sound mind who is 18 or older.

## 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 or older. The witnesses cannot be beneficiaries under your will, nor may they be persons who would inherit your property if you died without a will. An Advance Directive is not required to be notarized.

## Q: When does an Advance Directive go into effect?

**A:** An Advance Directive goes into effect when your attending physician and another physician determine that you are no longer able to make decisions regarding your medical treatment and you are in one of the three conditions explained on next page. Advance Directives do not determine your medical treatment in situations that do not affect your continued life, such as routine medical treatment and non life-threatening medical conditions.

## Q: What conditions does an Advance Directive cover?

**A:** An Advance Directive covers three conditions: 1) terminal condition, 2) persistently unconscious and 3) end-stage condition.

## 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 putting a person on a respirator, dialysis, pacemakers, surgery, blood transfusions and antibiotics) will, in the opinion of your attending physician and another physician, result in death within six months.

## Q: What does the term “persistently unconscious” mean?

**A:** “Persistently unconscious” means an irreversible condition as determined by your attending physician and another physician, in which thought and awareness of self and environment are absent.

## Q: What is an “end-stage condition”?

**A:** An “end-stage condition” means a condition caused by injury, disease or illness which results in severe and permanent deterioration indicated by incompetency and complete physical dependency for which treatment of the irreversible condition would be medically ineffective.

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

**A:** In the living will portion of your Advance Directive (Section I) you may direct that your life not be extended by life-sustaining treatment if you 1) are in a terminal condition, 2) are persistently unconscious or 3) have an end-stage condition. Alternatively, you can direct that you are to be



given life-sustaining treatment if you are in any of those three conditions.

You also have the ability to direct whether or not you wish to receive artificially administered nutrition (food) and hydration (water) if you are unable to take food and water by mouth in each of the three conditions described. Artificially administered food and water normally involves the surgical insertion of a feeding tube into your stomach.

Oklahoma law does provide that even if life-sustaining treatment or artificially administered nutrition and hydration are withheld or withdrawn, you shall be provided with medication or other medical treatment to alleviate pain, and you will be provided with oral consumption of food and water if you are able to eat or drink.

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

**A:** A health care proxy is a person who is authorized to make medical treatment decisions for you in the event that you are unable to make such decisions. Section II of Oklahoma’s Advance Directive allows you to appoint a health care proxy (such as your spouse or adult child) to make whatever medical treatment decisions you could make if you were able. You can also appoint an alternate (back-up) health care proxy to serve in the event your health care proxy is unable or unwilling to serve. Your physician is directed to follow the instructions of your health care proxy. While your health care proxy can make decisions regarding life-sustaining treatment and artificially administered food and water, such decisions must be in accord with your wishes on those subjects as you specify in the living will portion of your Advance Directive. Therefore it is important that you discuss these subjects in advance with your health care proxy and that you choose someone who supports your wishes as set forth in your living will.

**Q: May I direct organ donation in my Advance Directive?**

**A:** Yes; Section III, titled “Anatomical Gifts,”

gives you the opportunity to direct the donation of your entire body or designated body organs.

**Q: What happens if my attending physician does**

**not want to comply with my wishes as expressed in my Advance Directive?**

**A:** In that case, your attending physician is required, as promptly as practicable, to take all reasonable steps to arrange for your care by another physician.

**Q: Is the Advance Directive honored by my attending physician if I am pregnant?**

**A:** Oklahoma law provides that a person who has been diagnosed as pregnant and whose attending physician is aware of the diagnosis will be provided with life-sustaining treatment and artificially administered hydration and nutrition unless the person has, in her own words, specifically authorized that during a course of pregnancy, life-sustaining treatment and/or artificially administered hydration and/or nutrition shall be withheld or withdrawn.

**Q: Can I be required to complete an Advance Directive?**

**A:** No. It is illegal for anyone to require that you execute an Advance Directive as a condition of receiving health care services or health insurance coverage. It is also illegal for anyone to modify your life insurance coverage, or to refuse to issue life insurance coverage to you, because you have executed an Advance Directive.

**Q: Are Directives to a Physician or Advance Directives executed under prior laws still valid?**

**A:** Yes. If you signed a Directive to Physicians under the Oklahoma Natural Death Act, which was the law in effect prior to Sept. 1, 1992, or an Advance Directive for Health Care under the law in effect prior to May 2006, it remains valid until you revoke it. However, it is recommended that you consider signing a new Advance Directive for Health Care because of additional options available to you under the current law.

**Q: Does the Advance Directive require my signature more than one time?**

**A:** The Advance Directive requires that you initial multiple times but requires your signature only once at the end. Remember that this is a legal document, and if questions arise concerning portions that seem unclear,



you may wish to discuss them with your physician and/or attorney.

**Q: How is the Advance Directive different from a Do-Not-Resuscitate (DNR) Consent?**

**A:** A DNR consent form deals only with the subject of cardiopulmonary resuscitation (CPR) in the event of a cardiac or respiratory arrest. In such a document, a person can state that the person does not consent to the administration of CPR in the event the person's heart stops beating or the person stops breathing.

**Q: If I sign an Advance Directive how am I protected from a misjudgment by a physician?**

**A:** Oklahoma law requires that both your attending physician and another physician who has examined you determine that you are incapable of making an informed decision regarding your health care, including the provision, withholding or withdrawal of life-sustaining treatment. This determination has to become part of your medical record.

**Q: Can I revoke a signed Advance Directive?**

**A:** Yes. An Advance Directive may be revoked by you, either entirely or as to any part, at any time and in any manner, regardless of your mental or physical condition. The revocation becomes effective when you (or a person who witnessed the revocation) notify your attending physician or other health care provider of the revocation.

**Q: If I have signed more than one Advance Directive, which one will be effective?**

**A:** In the event you signed more than one valid Advance Directive, none of which have been revoked by you, the most recently signed Advance Directive will be considered your last wishes and the one given effect.

**Q: Is a document executed in another state and similar to Oklahoma's Advance Directive for Health Care honored in Oklahoma?**

**A:** If you signed an Advance Directive in another state,

which provides for the withholding or withdrawal of life-sustaining treatment or for the appointment of another to provide, withhold or withdraw life-sustaining treatment, and that document complied with the law of the state in which signed, it is valid in Oklahoma to the extent it does not exceed authorizations under Oklahoma law. However, Oklahoma residents should sign an Advance Directive that complies with the Oklahoma law if at all possible.

**Q: After signing an Advance Directive, to whom should I give copies?**

**A:** You should consider making copies of your Advance Directive for your personal records, your family, your physician, your attorney, your health care proxy and alternate health care proxy. Have additional copies ready to take with you when you require hospitalization or other care as your health care providers will need a copy for your medical record. You should keep a list of persons to whom you have given a copy of your Advance Directive so that if you later change it or revoke it, you may collect the copies.

**Q: Where can I acquire a copy of an Advance Directive?**

**A:** A copy of an Advance Directive for Health Care may be obtained from the Oklahoma Bar Association ([www.okbar.org/public/brochures](http://www.okbar.org/public/brochures)), or your attorney.

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