

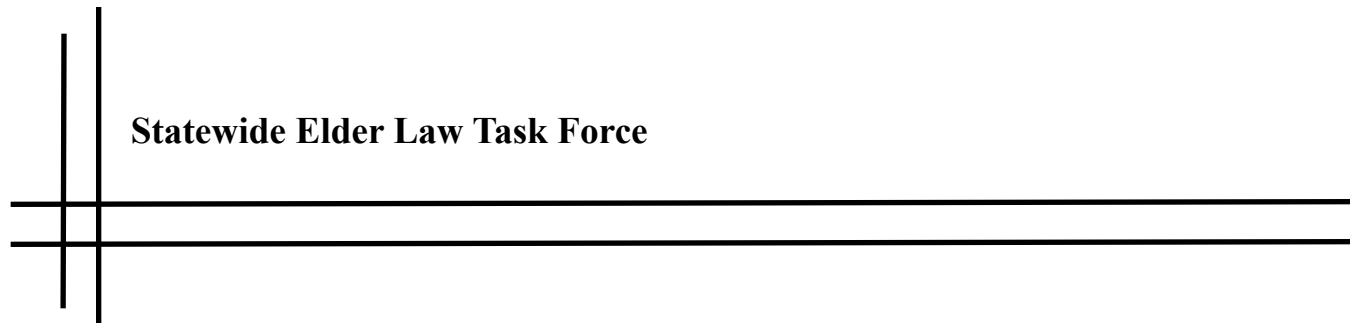
Planning for Incapacity

A Self-Help Guide



Advance Directive Forms for Louisiana

Statewide Elder Law Task Force



Planning for Incapacity *A Self-Help Guide* *Advance Directive Forms for Louisiana*

Disclaimer

These forms were originally developed by the AARP. The Louisiana Elder Law Task Force revised the Advance Directive Forms in July 2001, again in July 2008, and again in December, 2010. This information and the forms contained herein are intended to provide general guidance only. The information contained may be outdated. This information does not constitute, nor should it be treated, as legal advice. While reasonable efforts have been made to assure the accuracy of this information, neither the Elder Law Task Force nor its members, including individuals, organizations, agencies and financial sponsors, warrant any part thereof, and none will be responsible for any reliance upon this information or forms. There are no warranties, express or implied. All persons utilizing this information and/or forms must verify state of the law and update all information to ensure accuracy.

WHEN ARE ADVANCE DIRECTIVES NEEDED?

- ***You are in a nursing home with Alzheimer's disease which causes you to be confused and disoriented. You fall, fracture your hip, and now you require a hip replacement. Since you are unable to make the decision, who will consent to the treatment?***
- ***You are struck by a speeding motorcycle while crossing the street. While you are unconscious at the hospital, your doctor determines that you require a blood transfusion. For religious reasons, you have objected to blood transfusions in the past. Now that you cannot voice your objection, how can you be sure that your wishes will be protected?***
- ***After being treated for a heart condition, you suffer a stroke. As a result, you have severe brain damage and are now in a permanent coma, and not expected to live more than a few months. You are fed through a tube. Should the feeding tube be removed? Who will make the decision? How should the decision be made?***

In most health care situations, you have the right to make decisions about your medical treatment. Based on the information you receive, as well as your values and beliefs, you must weigh the risks and benefits of the proposed treatment, the likelihood of success, and any alternative course of treatment. Ultimately, you decide which

treatments you want and which ones to refuse. However, there may be a time when your illness, injury, or disability prevents you from being able to make your own decisions. Even if *you* are unable to make the decision, a decision still will be made. The issue becomes how much control you wish to exert over those decisions.

Recent advances in technology have increased the ability of the medical profession to extend life where formerly an individual might have died. Many people are increasingly concerned about the *quality* of the life that they will experience as the result of these advances in medical technology. This is particularly the case when an individual is mentally or physically incapacitated and unable to make decisions about medical care.

Courts have always followed the expressed wishes of competent adults. A competent adult can communicate preferences about future medical treatment through a legal document called an advance directive, which is defined in the glossary at the end of this booklet.

By using advance directives, you can control your health care decisions, even if you become incapacitated in the future. You prepare the advance directives while you are capable of making your own decisions. Generally, they take the form of instructions to your doctor, or the appointment of someone to make decisions for you. They can cover specific treatments such as life-sustaining procedures, or be very general and cover all medical decisions.

An advance directive can allow you to participate in decisions such as:

- choosing health care providers (doctors, nurses, home health aides);
- deciding who can have access to your medical records;
- choosing the type of medical treatment you will receive;
- refusing certain types of medical treatment; and
- choosing the person/s who will make decisions for you when you are unable to.

The following pages cover the most common types of advance directives: the health care power of attorney and the living will.

The questions and answers below are specific to Louisiana State law. The forms included in this guide are the forms in Louisiana statutes or, when there is no form in the statute, a generic form that complies with state law. Before completing the form/s, read this guide carefully, as well as the instructions with the forms.

SHOULD I HAVE AN ADVANCE DIRECTIVE?

Yes, advances in medical technology have changed the general view about health care. We now have cures for diseases which led to death a decade ago. Medicine also has seen the development of procedures and treatments that are solely

for the purpose of prolonging one's life. For many people, the thought of their life being prolonged when no cure is possible is unacceptable. Others feel that these procedures provide additional possibilities for survival. In either case, difficult choices must be made.

Clearly, if you have the capacity to decide, you have the right to make choices. However, if you are unable to make your own medical treatment decisions, someone else will decide for you. Advance directives allow you to control your healthcare decisions even when you become incapacitated. To limit certain types of treatment, you need an advance directive. If you want to choose who will decide for you when you are unable to decide for yourself, you need an advance directive.

WHAT IS A HEALTH-CARE POWER OF ATTORNEY?

A healthcare power of attorney (HCPOA) is a legally enforceable document in which you (the principal) authorize another person (the agent) to make healthcare decisions for you. The document must be prepared and signed while you are competent, and it is not affected by your later disability or incapacity. You may state in the document both the types of treatment that you do not want, as well as, any treatment that you want to be sure that you receive. The document can give your agent authority to make specific healthcare decisions, or the authority to make any and all healthcare decisions you could make if you were able including life sustaining procedures. However, as long as you can make your own decisions, you and not your agent, have the authority to make your own treatment decisions.

WHAT IS A LIVING WILL?

A living will is a written declaration directing your doctor to withdraw life sustaining procedures in the event you are diagnosed as having a terminal and irreversible condition. It does not apply to any other health-care decisions. A terminal and irreversible condition may occur in two situations. It may occur when a patient 1) has an incurable condition caused by an injury, disease, or illness, which within reasonable medical judgment will cause your death, or 2) is in a continual profound comatose state, and has no reasonable chance of recovery and for which the application of life sustaining procedures only result in delaying your death. Two physicians who personally examined you, one being your attending physician, must certify in writing that your condition is terminal and irreversible.

There are various types of life sustaining procedures. If you wish to have only some types withheld or withdrawn you must specify which types of treatment you do not wish to receive. You must always indicate your preference about the use of artificial nutrition and hydration.

WHAT IS THE DIFFERENCE BETWEEN A HEALTH-CARE POWER OF ATTORNEY AND A LIVING WILL?

A living will comes into effect only if your condition is terminal and irreversible. In addition, a living will only allows you to direct that life-sustaining procedures be withheld or withdrawn. A living will requires you to consider circumstances that may arise in the future and indicate your preferences long before you know what medical problems you may develop.

A HCPOA allows you to select the person/s who will make decisions about your health care when you are unable to do so. The ability to select an agent to act on your behalf allows you to exert some control over unexpected circumstances that are not specifically described in your HCPOA.

WHAT ADVANCE DIRECTIVE SHOULD I CHOOSE?

The type of advance directive you choose depends on what you want to accomplish.

It is common to have both a HCPOA and a living will.

IF I MOVE TO ANOTHER STATE, WILL MY ADVANCE DIRECTIVE BE VALID?

Probably. It is evidence of your wishes no matter where you are. However, the legal requirements for healthcare directives vary from state to state. A few states specifically recognize health care directives that were validly executed in another state. In most states the law about recognizing directives signed in other states is unclear. If you want to be absolutely safe when you move to another state, you should carry a wallet card indicating that you have signed a health care directive and how to get in touch with your agent, if you have one. Although this precaution may not guarantee that your wishes will be carried out, having a health care directive and a wallet card will go far in letting others know of your wishes. There is a wallet card on the back cover of this guide for you to cut out and use.

CAN I BE REQUIRED TO SIGN ONE OR BOTH OF THESE DOCUMENTS AS A CONDITION FOR ADMISSION TO A HEALTH-CARE FACILITY?

No. A hospital or nursing home cannot refuse to admit you because you have not signed a living will or HCPOA. If any health care facility tries to force you to sign an advance directive, you should contact the Medicare or Medicaid licensing agency in your state. On the other hand, if you have signed a living will or HCPOA, the hospital or nursing home must advise you, at the time of admission, about any policies it has that would prevent it from carrying out your expressed wishes.

SECTION I

HEALTH-CARE POWER OF ATTORNEY

WHO CAN BE MY AGENT?

Your agent must be an adult (18 years of age or older) who is competent to make decisions. You should consider nominating an alternate agent in case your first choice is unable or unwilling to make a health-care decision.

WHAT SHOULD I CONSIDER WHEN CHOOSING MY AGENT?

The person you choose should be someone who knows your values, religious beliefs and preferences about medical treatment. It is helpful if the person is in frequent contact with you, is geographically close to you and easy to reach in an emergency. It is critical to discuss your medical treatment preferences and your wishes about life sustaining treatments, even if the agent you choose is someone who knows you well, such as your spouse, relative, friend or spiritual advisor.

WHAT KINDS OF DECISIONS CAN MY AGENT MAKE?

The agent can be granted general authority to make any health-care decisions you could make unless you limit the agent's authority in the HCPOA. For example, an agent can be authorized to make any and all health-care decisions on the principal's behalf, including, but not limited to, decisions related to surgery, medical expenses, hospitalization, nursing home residency and/or medications.

You can also list the specific powers which you desire to be included. For example, an agent can be given to authority to:

- grant, refuse, or withdraw consent on the principal's behalf for any health care service, treatment or procedure, including medication decisions.
- talk to health care personnel, get information, have/give access to medical records, and sign forms necessary to carry out health care decisions.
- authorize admission to or discharge from any hospital, nursing home, residential care, assisted living or similar facility or services, and to contract for any health care related service or facility.
- authorize payment for any expenses resulting from health care services, treatment, placement or procedures provided.

HOW DO I CREATE A HEALTH-CARE POWER OF ATTORNEY?

You must be a mentally competent adult to execute a HCPOA. A few examples are provided in this guide. Whatever form is used there are a few rules that must be followed in order for the document to be valid.

- The principal or the document must clearly state that the agent can make health care decisions;
- It must be in writing;
- You must sign and date the HCPOA;
- The person appointed as your agent must accept the responsibility; therefore, the agent must be informed of the appointment and a copy of the document provided to the agent.

The HCPOA should be signed before two competent witnesses (not related by blood or marriage or entitled to any portion of your estate under any will or by operation of law). It is also a good idea to have the HCPOA notarized

CAN I CANCEL MY HEALTH-CARE POWER OF ATTORNEY?

Yes. As long as you have the mental capacity, you can cancel your HCPOA. If you want to cancel or revoke the agent's authority to make decisions, you should notify your doctor and agent in writing.

In addition, your health-care power of attorney will automatically terminate in the following circumstances.

- When a court appoints a curator for you in an interdiction;
- When the agent is found to be incompetent;
- When either the principal or the agent dies.

AM I REQUIRED TO UPDATE MY HEALTH-CARE POWER OF ATTORNEY?

No. The law does not require you to update your HCPOA. However, it is good practice to review your HCPOA every few years to make sure it continues to reflect your current wishes. If your wishes about certain medical treatments change, you should revise your HCPOA or write a new HCPOA and include the changes. If the treatment is not mentioned, at the very least, you should tell your agent about your wishes. If it is a major issue it may be a good idea to add it to your HCPOA.

You should also periodically review your choice for agent. For example, if you are getting a divorce or your spouse has died and you have named your spouse as your agent, you need to consider whether you want to name someone else.

WHEN DOES A HEALTH-CARE POWER OF ATTORNEY BECOME EFFECTIVE?

Unless otherwise stated in the document itself, the power of attorney becomes effective upon execution of the document and remains in effect should you no longer be able to make your own decisions.

If your HCPOA includes a provision regarding your wishes concerning life sustaining procedures, the authority granted does not become effective immediately. Your wishes regarding life-sustaining procedures can be followed only after two physicians have actually examined you and certified in writing that you have a terminal and irreversible condition.

You can specify that the HCPOA only becomes effective once you, the principal, are no longer able to make your own decisions. For more information on a springing power of attorney, also called a conditional procurator, please talk to a lawyer.

INSTRUCTIONS

Louisiana Health-Care Power of Attorney

**How To Use
This Form**

- Read this guide carefully
- Read the instructions on these pages
- Neatly print or type all information except where a signature is required

Paragraph 1

Neatly print or type your name and the name, address, and telephone number of your agent

Paragraph 2

Neatly print or type the name(s) of your alternate agent who will act only if your original agent is unable to act on your behalf.

Paragraph 4

This section gives your health care agent the authority to obtain/review your medical information. HIPAA stands for Health Insurance Portability and Accountability Act. It is a set of rules and regulations passed by the federal government to protect an individual's privacy with regard to the health care he obtains. For additional information regarding HIPAA, visit U.S. Department of Health and Human Services website at www.hhs.gov/ocr/privacy/.

Paragraph 5

This section is where you must indicate what specific instructions you have, if any, about future healthcare. If you fill in "none" or "no limitations," remember that your agent will have authority to make all lawful health-care decisions. You may state any type of treatment that you do not desire and/or any that you want to make sure you receive.

You can make your preferences known about treatment decisions, such as

- amputations
- blood transfusions
- chemotherapy
- transplants
- organ donation
- exploratory procedures and surgeries

Before signing this document, make sure of the following:

- review all of the information carefully
- make sure that you have clearly expressed your wishes
- if you make any errors in filling out the form, correct them in ink and put your initials and date next to the correction
- make sure you have had detailed discussions with your agent and your doctor.

IF YOU DO NOT UNDERSTAND OR HAVE QUESTIONS ABOUT THE USE OF THIS FORM, CONTACT AN ATTORNEY, HEALTH-CARE PROVIDER, OR SOCIAL WORKER

LOUISIANA

HEALTH CARE POWER OF ATTORNEY

1. I, _____, hereby appoint:

Name

Home Address

(_____) _____
Home Telephone Number

(_____) _____
Work Telephone Number

(_____) _____
Cell Telephone Number

as my agent to make health-care decisions for me if I become unable to make my own health care decisions such as the following:

_____ A. Grant, refuse, or withdraw consent on my behalf for any health care service, treatment or procedure, even though my death may ensue.

_____ B. Talk to health care personnel, get information, have access to medical records and sign forms necessary to carry out these decisions.

_____ C. Authorize my admission to or discharge from any hospital, nursing home, residential care, assisted living or similar facility or service.

_____ D. Contract on my behalf for any health-care related services or facility (without my agent incurring personal financial liability for such contracts) such as surgery, medical expenses and prescriptions.

_____ E. Make decisions regarding surgery, medical expenses and prescriptions.

2. If the person named as my agent is not available or is unable to act as my agent, I appoint the following person(s) to serve in the order listed below:

A. _____
Name

Home Address

(_____) _____
Home Telephone Number

(_____) _____
Work Telephone Number

(_____) _____
Cell Telephone Number

B.

_____	_____
Name	Home Address
(_____)_____	_____
Home Telephone Number	
(_____)_____	(_____)_____
Work Telephone Number	Cell Telephone Number

3. With this document, I intend to create a durable power of attorney for health care, which shall take effect upon and only during any period in which, in the opinion of my attending physician, I am unable to make or communicate a choice regarding a particular health-care decision. My agent shall make health-care decisions as I direct below or as I make known to him/her in some other way. If my agent is unable to determine the choice I would want to make, then my agent shall make a choice for me based upon what my agent believes to be in my best interest.

4. With this document, I authorize any person, organization, or entity involved with my health care to disclose and release to my agent any and all of my individually identifiable health information and medical records in accordance with HIPAA.

5. **SPECIAL PROVISIONS AND LIMITATIONS.** I do NOT want the following treatments: _____

6. To the extent that I am permitted by law to do so, I herewith nominate my agent to serve as the curator of my person, and/or in any similar representative capacity. If I am not permitted by law to make a nomination, then I request in the strongest possible terms that any court consider this nomination.

7. No person who relies in good faith upon representations by my agent or alternate agent shall be liable to me, my estate, my heirs or assigns for recognizing the agent's authority.

8. The powers delegated under this power of attorney are separable, so that the invalidity of one or more powers shall not affect any others.

BY MY SIGNATURE I INDICATE THAT I UNDERSTAND THE PURPOSE AND EFFECT OF THIS DOCUMENT.

I sign my name to this form on _____, 20____

(Date)

at: _____.
(City, State)

(Signature)

WITNESSES

The person who signed or acknowledged this document is personally known to me and I believe him/her to be of sound mind.

First Witness:

Signature: _____

Home Address: _____

Print Name: _____ Date: _____

Second Witness:

Signature: _____

Home Address _____

Print Name: _____ Date: _____

NOTARIZATION

STATE OF _____

PARISH OF _____

I, _____, a Notary Public in and for the State and Parish aforesaid, do hereby certify that _____, who personally came and appeared before me as the Principal, and executed the foregoing Durable Power of Attorney for Health-Care in said State and Parish, and acknowledged said Durable Power of Attorney for Health-Care as the Principal's voluntary act.

Witness my signature this _____ day of _____, 20__.

NOTARY PUBLIC

SECTION II

LIVING WILL

HOW DO I EXECUTE A LIVING WILL?

Louisiana law includes a sample living will declaration form. Your living will does not have to follow the language exactly, but it is a good starting point. The statutory form is included in this booklet. To be valid your living will should be executed as follows.

- You must sign and date the living will in the presence of at least two witnesses who are at least 18 years old.
- You must sign and date your living will.
- Neither of the witnesses can be someone who is related to you by blood or marriage or entitled to any portion of your estate under any will or by operation of law.

You may register the original or certified copy of your living will with the Secretary of State for a fee. Check with the Secretary of State's website for more information.

www.sos.louisiana.gov/home/publications/livingwilldeclarations/tabid/208/default.aspx

You should always give a copy of your living will to your attending doctor, your family, and anyone else who may be called upon to care for you should you become ill.

WHEN DOES THE LIVING WILL BECOME EFFECTIVE?

The living will does not become effective until you have been examined by two doctors, one of whom is your attending doctor, and they certify in writing that you have been diagnosed as having a terminal and irreversible condition.

CAN I REVOKE MY LIVING WILL?

Yes. You can change your mind and revoke your living will at any time, regardless of your mental condition. You can revoke your living will by:

- communicating to others orally that you revoke your living will; or
- a physical act, such as tearing, defacing, or burning the document; or
- signing and dating a written document indicating your intent to revoke your living will.

A written revocation is the preferred method of revoking your living will. Make sure you provide a copy of the revocation to anyone who has a copy of your living will.

If your doctor has a copy of your living will or has made a notation in your medical record, the revocation does not become effective until it is communicated to your attending doctor. Ask your doctor to record in your medical record the date and time your revocation is received.

Although your doctor is not required to contact the Secretary of State to determine if a revocation has been filed, if you have filed your living will with the Secretary of State, you must send a notice of revocation to the Secretary of State. Until the Secretary of State receives notice of revocation, a physician may rely on the validity of the living will filed with the Secretary of State.

WHAT IS MY DOCTOR'S OBLIGATION WITH REGARD TO MY LIVING WILL?

It is your responsibility to let your doctors and other healthcare providers know you have a living will. Your doctor is required to include your living will in your medical record, and follow its directions as closely as possible, even if your relatives disagree. If your doctor has been notified that you have made a living will, or your doctor independently determines you have a living will on file with the Secretary of State, your doctor must take certain steps. If you develop a terminal and irreversible condition, your doctor must certify it in writing before the wishes in your living will go into effect. However, your doctor has no duty to search the registry to learn whether you have a living will on file.

Your doctor may independently decide not to follow your directions because of some conflict. If your doctor chooses not to follow the directions in your living will, the law requires your doctor to make a reasonable effort to transfer you to another doctor. This problem can be avoided if you discuss your wishes with regard to life sustaining treatment with your doctor in advance and determine that your doctor will honor your wishes. If not, you have the option of seeking another doctor who understands your desires and has no conflict about honoring them.

If the policies of any of your healthcare providers (health maintenance organization, home health agency, hospice, hospital or nursing facility) prohibit the provider from following your living will directions, the provider must take all reasonable steps to transfer you to another provider who will honor your directions. Find out about any such policies now, to anticipate or avoid problems in the future.

HOW WILL PEOPLE KNOW I HAVE A LIVING WILL?

First, you should discuss it with your family, close friends, and all your healthcare providers. These are the people most likely to need this information. However, you can also carry a wallet card like the one provided with this booklet. If you register your living will with the Secretary of State and pay the fee you will receive a laminated wallet

identification card and a “Do Not Resuscitate” bracelet. You should not wear the bracelet unless you are suffering from an incurable injury, disease or illness. Although emergency personnel and other healthcare providers are not bound by the instruction on this bracelet, it may alert them that you have a living will in the registry. However, if you wear the bracelet before you have been certified as terminal and irreversible, you may be telling healthcare providers to withhold treatment in a way that is inconsistent with Louisiana law. Before making the decision to wear the bracelet, discuss your situation with your health-care provider, family, close friends and clergy.

Instructions

How to Use This Form

- Read this Guide Carefully.
- Read the instruction on this page.
- Neatly print or type all information except where a signature is required.
- Your living will can be customized with specific directions.
- You should talk to an attorney before customizing your living will.

IF YOU DO NOT UNDERSTAND OR HAVE QUESTIONS ABOUT THE USE OF THIS FORM, A “DO NOT RESUSCITATE” BRACELET OR CUSTOMIZING YOUR LIVING WILL FORM, CONTACT AN ATTORNEY, HEALTH-CARE PROVIDER, OR SOCIAL WORKER.

LOUISIANA LIVING WILL DECLARATION

Declaration made this _____ day of _____ 20__.

I, _____, being of sound mind, willfully and voluntarily make known my desire that my dying shall not be artificially prolonged under the circumstances set forth below and do hereby declare:

If at any time I should have an incurable injury, disease or illness, or be in a continual profound comatose state with no reasonable chance of recovery, certified to be a terminal and irreversible condition by two physicians who have personally examined me, one of whom shall be my attending physician, and the physicians have determined that my death will occur whether or not life-sustaining procedures are utilized, and where the application of life-sustaining procedures would serve only to prolong artificially the dying process, I direct (initial one only):

_____ That all life-sustaining procedures, including nutrition and hydration, be withheld or withdrawn so that food and water will not be administered evasively.

_____ That all life-sustaining procedures, except nutrition and hydration, be withheld or withdrawn so that food and water will not be administered evasively.

I further direct that I be permitted to die naturally with only the administration of medication or the performance of any medical procedure deemed necessary to provide me with comfort care.

In the absence of my ability to give directions regarding the use of such life-sustaining procedures, it is my intention that this declaration shall 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.

Signed : _____

City, Parish and State of Residence _____

WITNESSES

I declare that the person who signed this document is personally known to me, and that he or she appears to be of sound mind. I am at least 18 years of age and am not related to the declarant by blood or marriage, or entitled to any portion of the declarant's estate under any will or by operation of law.

1.

Witness

Address

City

State/Zip

2.

Witness

Address

City

State/Zip

SECTION III

Practical Tips

WHAT PRACTICAL STEPS CAN I TAKE TO BE SURE THAT MY ADVANCE DIRECTIVE IS FOLLOWED?

Even with an advance directive, there is no guarantee that your wishes will be followed. Medical technology continues to change and the law can be uncertain about your rights under various circumstances. The treatment issues that may occur may differ from the situations you anticipated in your advance directive.

However, you can increase the chances that your wishes will be followed by taking the following steps:

Talk with your doctor, both before and after you execute and advance directive.

- Discuss your values and philosophy, as well as specific treatment preferences with your agent both before and after you execute your advance directive. Also, discuss how to handle anyone who might object to the choices you have made.
- Make sure that the document is available when needed.
- Discuss the fact that you have executed the document with your family, friends, or spiritual advisor - anyone who is likely to be involved if you become incapacitated.
- Carry a wallet card like the one provided at the end of this guide.
- If you enter a hospital or nursing home, you should be given a copy of its policy about advance directives. If you do not receive this information, ask for a written copy of its policies and procedures. Check the policy to make sure the facility will honor your advance directive.

- Review your advance directive every year or two in order to decide if anything in your life has changed that would require you to change your advance directive.
- You should make copies of your advance directive. At the minimum you should have two copies for yourself, a copy for each of your doctors, and one for your agent, if you have chosen one.
- You should keep *your copies* in a safe, accessible location where someone who knows you can find them in an emergency. It is a good idea to tell friends and family where the document is located. If you are frail and live alone, you may also wish to tell a neighbor where you have put your copies.
- If you enter a hospital or nursing home, request that a copy be included in your medical record and your wishes noted on your chart.

WHAT IF I DO NOT HAVE A DOCTOR?

Over 50% of the population does not have a doctor they see regularly. If you do not have a chronic condition, the chances are that you may see a doctor only occasionally for minor problems.

You may wish to establish a relationship with a primary care doctor with whom you feel comfortable discussing such matters as your advance directives.

You may wish to complete the advance directive now based on your own experience or preferences. Reading this section will help you identify the types of situations and treatments you wish to address in you advance directive.

If you do not have a doctor and you enter a hospital, it is essential that you discuss your advance directive/s with the doctor treating you.

WHAT IF I ALREADY SUFFER FROM A CHRONIC CONDITION?

If you are suffering from a condition that may result in significant incapacity (such as cancer, Alzheimer's disease, diabetes or cardiovascular disease), it is wise to discuss possible complications with your doctor. Ask what types of treatment are typically used over the course of the condition. For example, amputation for gangrene may be a future issue if you are suffering from the complications of diabetes.

WHAT IS THE DIFFERENCE BETWEEN WITHHOLDING AND WITHDRAWING MEDICAL TREATMENT?

If a sudden illness or injury occurs or an on-going condition worsens, medical intervention might be required to sustain your life, Sometimes you might prefer that treatment be withheld (not started) because it is a painful burden and would only extend your life briefly.

Withdrawing treatment refers to situations in which life-sustaining interventions have already been started and you wish to *stop* the medical procedures that are sustaining life.

The decision *not to start* life-sustaining treatment may seem different from *stopping* treatment after a doctor has determined that you will not recover. However, legally and ethically, there is no difference. You have the right to have life-sustaining treatment either withheld or withdrawn. You may wish to talk to your doctor about a “trial of treatment” - that is, starting a treatment and stopping it later.

WHAT ARE SOME OF THE MEDICAL ISSUES I SHOULD KNOW ABOUT?

Quality of Life - Evaluations of quality of life are subjective and personal. What is an acceptable quality of life to someone else may be a fate “worse than death” to you.

Medical Interventions that sustain life - Should you become incapacitated by any of the conditions noted below, it may be necessary to use certain medical treatments to keep you alive. An advance directive allows you to refuse certain types of life-sustaining treatment. This guide describes some of the common types of life-sustaining treatments you may wish to include in your advance directive/s. Your doctor can offer more detailed information and discuss the options with you.

Comfort Care - No matter what life-sustaining treatment you choose to limit, you can still receive medical care to relieve pain and ensure your physical and emotional comfort. This is a very important issue to discuss with your doctor.

There is some overlap between medical interventions to sustain life and those designed to offer comfort care. For example, treatment of infections with antibiotics may relieve discomfort *and* prolong life.

WHAT GENERAL TYPES OF MEDICAL CONDITIONS AFFECT MY QUALITY OF LIFE AND MIGHT BE COVERED IN AN ADVANCE DIRECTIVE/S?

There are four general types of conditions that many people discuss with their doctors when considering an advance directive.

- 1) *Persistent vegetative state* - Patients in this condition may live for a long period of time as long as they are fed and given water artificially. Some time may be necessary for the doctor to actually make this diagnosis. Discussions with your doctor concerning your existence in this condition can be very meaningful on the issue of the quality of life you wish to experience.

- 2) *Irreversible coma* - One issue to discuss with your doctor is when a coma will be considered “irreversible.” Your doctor will exercise discretion and professional expertise to determine when a coma is irreversible. This may not always be a clear cut decision and some people note in their advance directives a time period after which they wish to have certain treatments withheld if they do not recover consciousness.
- 3) *Conscious but unable to communicate* - The patient may be seriously mentally impaired such as a patient with advance Alzheimer’s Disease. A patient may be seriously physically ill like the patients suffering the physical deterioration which may follow a major stroke. There may be a drug-induced inability to communicate such as that experienced by some cancer patients receiving extremely strong pain medication.
- 4) *Near death* - The patient may be dying soon even with aggressive treatment.

IF I SUFFER FROM ONE OF THESE CONDITIONS, WHAT TYPES OF MEDICAL INTERVENTION MIGHT I WISH TO CONSIDER LIMITING?

The most common types are:

- 1) *Respirator use (also called a ventilator)* - For patients suffering severe problems with breathing, or the complete failure of the lungs, the respirator can take over the role of the chest muscles to allow the patient to breathe. A respirator can get more oxygen into the lungs than normal breathing can. A tube is placed down the throat into the wind pipe. With the tube in place, it is not possible to talk or eat. Even for the patient with irreversible diseases or paralysis affecting breathing, mechanical ventilation offers the possibility for prolonged life. The need for a respirator maybe permanent or temporary.
- 2) *Cardiopulmonary Resuscitation (CPR)* - A number of medical devices and procedures can be used to restore and maintain blood circulation and breathing in a person whose heart and/or breathing has stopped. These can include pumping on the chest, artificial breathing, and sometimes medications and/or electric shock. When a person’s heart stops beating or beats so poorly that blood circulation is not enough to supply the brain with oxygen and nutrients, the brain is irreversibly damaged within minutes. Spontaneous breathing cannot be recovered and death follows quickly. CPR offers a way to reverse the immediate threat to life. There is medical evidence that CPR for certain chronically ill people (especially if the person is also elderly) is almost never successful. Successful attempts at CPR may still result in brain damage or other injuries. After CPR, the patient may need a respirator for a few days or even permanently.

- 3) *Kidney dialysis* - This is a procedure to remove impurities from the blood in a patient whose kidneys have failed. Healthy kidneys regulate the body's water and salts and remove the excess (as urine). They also produce and release hormones into the blood stream that control vital function such as blood pressure and red blood cell production. Dialysis offers an effective artificial way to perform some kidney functions. Kidney dialysis is also important for removing excess fluid. The blood is pumped out of the patient's body into a dialyzer where the impurities are removed, then returned to the patient's body. Some people remain on dialysis for a number of years.
- 4) *Certain medications* - Medications such as those used in chemotherapy or antibiotics may be necessary to sustain life. Antibiotics are used to treat a variety of infections. For elderly patients, the most common types of life-threatening infections include pneumonia, urinary tract infections and infected decubitus ulcers (bed or pressure sores). These treatments are usually effective in treating infections, but they cannot cure underlying diseases and disabling conditions that are common among elderly patients. Untreated infections, such as some types of pneumonia, can be a fairly comfortable death within a short time. Your preference regarding antibiotics may depend upon whether the antibiotics can *cure* an acute, mild infection and return you to a stable condition or whether they only slow down the inevitable deterioration of your condition.

NOTE: Treatment facilities may sometimes require the use of antibiotics in order to protect other patients.

- 5) *Artificial nutrition and hydration* - Food and water can be administered by tube to patients unable to take it orally. People who are physically unable to swallow food and fluids by mouth are at obvious risk of malnutrition, dehydration, and death. Tube feeding can be provided through a tube that is put down the nose to the stomach. A tube may also be surgically inserted through the belly wall to the stomach or small intestines. Or IV's (intravenous tubes) may be inserted through the skin to a blood vessel.

NOTE: Some people fear that withdrawing nutrition and hydration will cause the patient to suffer. The prevailing medical opinion is that unless a patient could take food and water by mouth, there is an anesthetizing effect caused by dehydration and inadequate nutrition. For a person in a persistent vegetative state, there will not be any discomfort. For a terminally ill person, because there is often a reduction in intake of food and water as death approaches, any discomfort is unlikely and may be relieved by rubbing the lips with glycerin or placing crushed ice on the lips to relieve dryness.

GLOSSARY

Advance directive:	a general term for legal documents (such as a living will or health-care power of attorney) that state your preference for medical treatment in the event you become unable to make your own decisions.
Agent:	the person you choose to make decisions on your behalf. An agent is the person designated in a health-care power of attorney to act for the principal. Also called a mandatary, or attorney-in-fact.
Cardiopulmonary resuscitation (CPR):	those measures used to restore or support cardiac or respiratory function in the event of a cardiac or respiratory arrest.
Declaration:	a witnessed document, statement, or expression voluntarily made by the declarant, authorizing the withholding or withdrawal of life-sustaining procedures. A declaration may be made in writing, orally, or by other means of nonverbal communication.
Do-not resuscitate bracelet:	is an identification bracelet issued to “qualified” patients listed in The Secretary of State living will registry. The bracelet must include the patient’s name, date of birth, and the phrase “DO NOT RESUSCITATE”.
Execute:	following the guidelines set down in the law for completing a document that is legally enforceable. This may include procedures such as having witnesses to your signature.
Health Care Power of Attorney (HCPOA):	an advance directive that remains valid after the principal becomes incapacitated, and empowers a designated person (the agent) to make decisions for an incapacitated principal; sometimes called a health-care proxy or a mandate.
Incapacitated person:	a person who lacks sufficient understanding or capacity to make or communicate a responsible decision on health-care for himself/herself, because of physical disability, chronic alcoholism, drug addiction, disease, or mental disability.

Life Sustaining procedures:	any medical procedure or intervention, which, within reasonable medical judgment, would serve only to prolong the dying process for a person diagnosed as having a terminal and irreversible condition, including such procedures as the invasive administration of nutrition and hydration and the administration of cardiopulmonary resuscitation. A “life-sustaining procedure” shall not include any measure deemed necessary to provide comfort care.
Principal:	a person who grants an agent authority to act on his/her behalf. .
Qualified patient:	a patient diagnosed and certified in writing as having a terminal and irreversible condition by two physicians who have personally examined the patient, one of whom is the attending physician.
Respirator:	also called a ventilator. Refers to a mechanical device that uses a tube through the nose or throat to assist breathing. “Ventilator” is the term preferred by health care professionals.
Spouse:	a person who is legally married to the qualified patient but does not include a spouse who is judicially separated from the patient, is cohabited with another person in the manner of married persons, who has been convicted of any crime of violence against the other spouse that has resulted in the terminal and irreversible condition as defined below, or who has violated any domestic abuse protective order affecting the other spouse.
Terminal and Irreversible Condition:	a continual profound comatose state with no reasonable chance of recovery or a condition caused by injury, disease or illness, which, within reasonable medical judgment, would produce death and for which the application of life-sustaining procedures would serve only to postpone the moment of death.

The End

This public document provides general legal information and does not take the place of consultation with a licensed attorney about your specific facts. This revised public document was published at a total cost of \$_____ for 1,000 copies by the Governor's Office of Elderly Affairs, 525 Florida Blvd., Baton Rouge, La.70801, to educate seniors & other organizations that serve Louisiana's elder population. It was printed in accordance with standards for printing by state agencies established in La. R.S. 43:31.

Wallet Card

It is essential that your health care provider know that you have executed an advance directive. Your treating physicians should be given a copy of the documents.

The wallet card is one way to do this. Fill out the card, sign, and date it. Then cut it out and carry it with you at all times. It may be helpful to laminate this wallet card.

Notice to Health Care Providers	
<input type="checkbox"/> I have executed a Living Will	
<input type="checkbox"/> I have executed a Health Care Power of Attorney and appointed:	
_____ (Agent's Name)	
_____ (Agent's Address)	
Phone: _() _____ (day) _() _____ (eve.)	
as my agent to make health and personal care decisions for me if I am unable to do so. He/she has a copy of my complete health care power of attorney.	
_____ (Date)	_____ (Your Printed Name)
	_____ (Signature)