

**A LITTLE SOMETHING
DIFFERENT, LLC. (ALSD)**

Advanced Directive Package

Summary of State Law Regarding Advance Directives

An advance directive is:

- (1) a directive;
- (2) an out-of-hospital do-not-resuscitate (DNR) order;
- (3) a medical power of attorney; or
- (4) a declaration for mental health treatment.

DIRECTIVE (Chapter 166 of the Texas Health and Safety Code)

- A directive is an instruction made to administer, withhold, or withdraw life-sustaining treatment in the event of a terminal or irreversible condition.
- "Life-sustaining treatment" means treatment that, based on reasonable medical judgment, sustains the life of a patient and without which the patient will die. The term includes both life-sustaining medications and artificial life support, such as mechanical breathing machines, kidney dialysis treatment, and artificial nutrition and hydration. The term does not include the administration of pain management medication or the performance of a medical procedure considered to be necessary to provide comfort care, or any other medical care provided to alleviate a patient's pain.
- "Irreversible condition" means a condition, injury, or illness:
 - (A) that may be treated but is never cured or eliminated;
 - (B) that leaves a person unable to care for or make decisions for the person's own self; and
 - (C) that, without life-sustaining treatment provided in accordance with the prevailing standard of medical care, is fatal.
- "Terminal condition" means an incurable condition caused by injury, disease, or illness that according to reasonable medical judgment will produce death within six months, even with available life-sustaining treatment provided in accordance with the prevailing standard of medical care.
- A sample form of a written directive, as contained in Texas Health and Safety Code, §166.033 may be found at the Texas Department of Aging and Disability Services (DADS) Advance Directives [webpage](#) .

OUT-OF-HOSPITAL DNR ORDER (Chapter 166 of the Texas Health and Safety Code)

- An out-of-hospital DNR order is a legally binding order that directs health care professionals in an out-of-hospital setting not to initiate or continue the following life-sustaining procedures:
 - (i) cardiopulmonary resuscitation;
 - (ii) advanced airway management;
 - (iii) artificial ventilation;
 - (iv) defibrillation; and
 - (v) transcutaneous cardiac pacing.
 - (vi) other life-sustaining treatment specified by the Department of State Health Services.
- The required form of an out-of-hospital DNR, as described in Texas Health and Safety Code, §166.083, may be found at the DADS Advance Directives [webpage](#) .

MEDICAL POWER OF ATTORNEY (Chapter 166 of the Texas Health and Safety Code)

- A medical power of attorney is a document in which an adult, referred to as the “principal,” delegates to another person, referred to as the “agent,” the authority to make health care decisions.
- The agent does not acquire authority under the power of attorney until the principal becomes incompetent and the principal’s attending physician certifies the principal’s incompetency in writing and files that certification in the principal’s medical records.
- A medical power of attorney is not effective unless the principal, before executing the medical power of attorney, signs a statement that the principal has received a disclosure statement and has read and understood its contents.
- The disclosure statement and medical power of attorney forms must substantially be the forms set forth in Texas Health and Safety Code, §§166.063-.064. Those forms may be found at the DADS Advance Directives [webpage](#).

DECLARATION FOR MENTAL HEALTH TREATMENT (Chapter 137 of the Texas Civil Practice and Remedies Code)

- A declaration for mental health treatment is a document in which an adult, referred to as the “principal,” gives consent for treatment for psychoactive medication, convulsive treatment, and preferences for restraint, seclusion or medication in an emergency.
- A physician or other health care provider must act in accordance with the declaration for mental health treatment when the principal has been found to be incapacitated.
- “Incapacitated” means that, in the opinion of the court in a guardianship proceeding under the Texas Probate Code, or in a medication hearing under the Health and Safety Code, a person lacks the ability to understand the nature and consequences of a proposed treatment, including the benefits, risks, and alternatives to the proposed treatment, and lacks the ability to make mental health treatment decisions because of impairment.
- A declaration for mental health treatment expires on the third anniversary of the date of its execution or when revoked by the principal, except if the principal is incapacitated on the third anniversary of the effective date of the declaration, the declaration remains in effect until the principal is no longer incapacitated.
- The declaration for mental health treatment must substantially be the form set forth in Texas Civil Practice and Remedies Code, §137.011. This form may be found at the DADS Advance Directives [webpage](#).

Directive to Physicians and Family or Surrogates

Advance Directives Act (see §166.033, Health and Safety Code)

This is an important legal document known as an Advance Directive. It is designed to help you communicate your wishes about medical treatment at some time in the future when you are unable to make your wishes known because of illness or injury. These wishes are usually based on personal values. In particular, you may want to consider what burdens or hardships of treatment you would be willing to accept for a particular amount of benefit obtained if you were seriously ill.

You are encouraged to discuss your values and wishes with your family or chosen spokesperson, as well as your physician. Your physician, other health care provider, or medical institution may provide you with various resources to assist you in completing your advance directive. Brief definitions are listed below and may aid you in your discussions and advance planning. Initial the treatment choices that best reflect your personal preferences. Provide a copy of your directive to your physician, usual hospital, and family or spokesperson. Consider a periodic review of the document. By periodic review, you can best assure that the directive reflects your preferences.

In addition to this advance directive, Texas law provides for two other types of directives that can be important during a serious illness. These are the Medical Power of Attorney and the Out-of-Hospital Do-Not-Resuscitate Order. You may wish to discuss these with your physician, family, hospital representative, or other advisers. You may also wish to complete a directive related to the donation of organs and tissues.

Directive

I _____, recognize that the best health care is based upon a partnership of trust and communication with my physician. My physician and I will make health care decisions together as long as I am of sound mind and able to make my wishes known. If there comes a time that I am unable to make medical decisions about myself because of illness or injury, I direct that the following treatment preferences be honored:

If, in the judgement of my physician, I am suffering with a terminal condition from which I am expected to die within six months, even with available life-sustaining treatment provided in accordance with prevailing standards of medical care:

_____ I request that all treatments other than those needed to keep me comfortable be discontinued or withheld and my physician allow me to die as gently as possible; OR

_____ I request that I be kept alive in this terminal condition using available life-sustaining treatment.
(This selection does not apply to Hospice care.)

If, in the judgement of my physician, I am suffering with an irreversible condition so that I cannot care for myself or make decisions for myself and am expected to die without life-sustaining treatment provided in accordance with prevailing standards of medical care:

_____ I request that all treatments other than those needed to keep me comfortable be discontinued or withheld and my physician allow me to die as gently as possible; OR

_____ I request that I be kept alive in this irreversible condition using available life-sustaining treatment. **(This selection does not apply to Hospice care.)**

Additional Requests: (After discussion with your physician, you may wish to consider listing particular treatments in this space that you do or do not want in specific circumstances, such as artificial nutrition and fluids, intravenous antibiotics, etc. Be sure to state whether you do or do not want the particular treatment.)

After signing this directive, if my representative or I elect hospice care, I understand and agree that only those treatments needed to keep me comfortable would be provided and I would not be given available life-sustaining treatments.

If I do **not** have a Medical Power of Attorney, and I am unable to make my wishes known, I designate the following person(s) to make treatment decisions with my physician compatible with my personal values:

1. _____
2. _____

(If a Medical Power of Attorney has been executed, then an agent already has been named and you should not list additional names in this document.)

If the above persons are not available, or if I have not designated a spokesperson, I understand that a spokesperson will be chosen for me, following standards specified in the laws of Texas.

If, in the judgement of my physician, my death is imminent within minutes to hours, even with the use of all available medical treatment provided within the prevailing standard of care, I acknowledge that all treatments may be withheld or removed except those needed to maintain my comfort. I understand that under Texas law this directive has no effect if I have been diagnosed as pregnant. This directive will remain in effect until I revoke it. No other person may do so.

Signed _____ Date _____

City, County and State of Residence _____

Two witnesses must sign in the spaces below.

Two competent adult witnesses must sign below, acknowledging the signature of the declarant. The witness designated as **Witness (1)** may not be a person designated to make a treatment decision for the patient and may not be related to the declarant by blood or marriage. This witness may not be entitled to any part of the estate and may not have a claim against the estate of the patient. This witness may not be the attending physician or an employee of the attending physician. If this witness is an employee of a health care facility in which the patient is being cared for, this witness may not be involved in providing direct patient care to the patient. This witness may not be an officer, director, partner, or business office employee of a health care facility in which the patient is being cared for or of any parent organization of the health care facility.

Witness (1) _____ Witness (2) _____

Definitions:

"Artificial nutrition and hydration" means the provision of nutrients or fluids by a tube inserted in a vein, under the skin in the subcutaneous tissues, or in the stomach (gastrointestinal tract).

"Irreversible condition" means a condition, injury, or illness:

- a. that may be treated, but is never cured;
- b. that leaves a person unable to care for or make decisions for the person's own self; and
- c. that, without life-sustaining treatment provided in accordance with the prevailing standard of medical care is fatal.

Explanation: Many serious illnesses such as cancer, failure of major organs (kidney, heart, liver, or lung), and serious brain disease such as Alzheimer's dementia may be considered irreversible early on. There is no cure, but the patient may be kept alive for prolonged periods of time if the patient receives life-sustaining treatments. Late in the course of the same illness, the disease may be considered terminal when, even with treatment, the patient is expected to die. You may wish to consider which burdens of treatment you would be willing to accept in an effort to achieve a particular outcome. This is a very personal decision that you may wish to discuss with your physician, family, or other important persons in your life.

"Life-sustaining treatment" means treatment that, based on reasonable medical judgement, sustains the life of a patient and without which the patient will die. The term includes both life-sustaining medications and artificial life support such as mechanical breathing machines, kidney dialysis treatment, and artificial hydration and nutrition. The term does not include the administration of pain management medication, the performance of a medical procedure necessary to provide comfort care, or any other medical care provided to alleviate a patient's pain.

"Terminal condition" means an incurable condition caused by injury, disease, or illness that according to reasonable medical judgement will produce death within six months, even with available life-sustaining treatment provided in accordance with the prevailing standard of medical care

Explanation: Many serious illnesses may be considered irreversible early in the course of the illness, but they may not be considered terminal until the disease is fairly advanced. In thinking about terminal illness and its treatment, you again may wish to consider the relative benefits and burdens of treatment and discuss your wishes with your physician, family, or other important persons in your life.

Disclosure Statement for Medical Power of Attorney

Advance Directives Act (see §166.163, Health and Safety Code)

This is an important legal document.
Before signing this document, you should know these important facts:

Except to the extent you state otherwise, this document gives the person you name as your agent the authority to make any and all health care decisions for you in accordance with your wishes, including your religious and moral beliefs, when you are no longer capable of making them yourself. Because "health care" means any treatment, service or procedure to maintain, diagnose, or treat your physical or mental condition, your agent has the power to make a broad range of health care decisions for you. Your agent may consent, refuse to consent, or withdraw consent to medical treatment and may make decisions about withdrawing or withholding life-sustaining treatment. Your agent may not consent to voluntary inpatient mental health services, convulsive treatment, psychosurgery, or abortion. A physician must comply with your agent's instructions or allow you to be transferred to another physician.

Your agent's authority begins when your doctor certifies that you lack the competence to make health care decisions.

Your agent is obligated to follow your instructions when making decisions on your behalf. Unless you state otherwise, your agent has the same authority to make decisions about your health care as you would have had.

It is important that you discuss this document with your physician or other health care provider before you sign it to make sure that you understand the nature and range of decisions that may be made on your behalf. If you do not have a physician, you should talk with someone else who is knowledgeable about these issues and can answer your questions. You do not need a lawyer's assistance to complete this document, but if there is anything in this document that you do not understand, you should ask a lawyer to explain it to you.

The person you appoint as agent should be someone you know and trust. The person must be 18 years of age or older or a person under 18 years of age who has had the disabilities of minority removed. If you appoint your health or residential care provider (e.g., your physician or an employee of a home health agency, hospital, nursing home, or residential care home, other than a relative), that person has to choose between acting as your agent or as your health or residential care provider; the law does not permit a person to do both at the same time.

You should inform the person you appoint that you want the person to be your health care agent. You should discuss this document with your agent and your physician and give each a signed copy. You should indicate on the document itself the people and institutions who have signed copies. Your agent is not liable for health care decisions made in good faith on your behalf.

Even after you have signed this document, you have the right to make health care decisions for yourself as long as you are able to do so and treatment cannot be given to you or stopped over your objection. You have the right to revoke the authority granted to your agent by informing your agent or your health or residential care provider orally or in writing, by your execution of a subsequent medical power of attorney. Unless you state otherwise, your appointment of a spouse dissolves on divorce.

This document may not be changed or modified. If you want to make changes in the document, you must make an entirely new one.

You may wish to designate an alternate agent in the event that your agent is unwilling, unable, or ineligible to act as your agent. Any alternate agent you designate has the same authority to make health care decisions for you.

This Power of Attorney is not valid unless it is signed in the presence of two competent adult witnesses. The following persons may not act as ONE of the witnesses:

- the person you have designated as your agent.
- a person related to you by blood or marriage;
- a person entitled to any part of your estate after your death under a will or codicil executed by you or by operation of law;
- your attending physician;
- an employee of your attending physician;
- an employee of a health care facility in which you are a patient if the employee is providing direct patient care to you or is an officer, director, partner, or business office employee of a health care facility or of any parent organization of the health care facility; or
- a person who, at the time this power of attorney is executed, has a claim against any part of your estate after your death.

Medical Power Of Attorney

Advance Directives Act (see §166.164, Health and Safety Code)

Designation of Health Care Agent:

I, _____ (insert your name) appoint:

Name: _____

Address: _____

Phone: _____

as my agent to make any and all health care decisions for me, except to the extent I state otherwise in this document. This medical power of attorney takes effect if I become unable to make my own health care decisions and this fact is certified in writing by my physician.

Limitations On The Decision Making Authority Of My Agent Are As Follows:

Designation of an Alternate Agent:

(You are not required to designate an alternate agent but you may do so. An alternate agent may make the same health care decisions as the designated agent if the designated agent is unable or unwilling to act as your agent. If the agent designated is your spouse, the designation is automatically revoked by law if your marriage is dissolved.)

If the person designated as my agent is unable or unwilling to make health care decisions for me, I designate the following person(s), to serve as my agent to make health care decisions for me as authorized by this document, who serve in the following order:

First Alternate Agent

Name: _____

Address: _____

Phone: _____

Second Alternate Agent

Name: _____

Address: _____

Phone: _____

The original of the document is kept at _____

The following individuals or institutions have signed copies:

Name: _____

Address: _____

Name: _____

Address: : _____

Duration

I understand that this power of attorney exists indefinitely from the date I execute this document unless I establish a shorter time or revoke the power of attorney. If I am unable to make health care decisions for myself when this power of attorney expires, the authority I have granted my agent continues to exist until the time I become able to make health care decisions for myself.

(If Applicable) This power of attorney ends on the following date: _____

Prior Designations Revoked

I revoke any prior medical power of attorney.

Acknowledgement of Disclosure Statement

I have been provided with a disclosure statement explaining the effect of this document. I have read and understand the information contained in this disclosure statement.

(You Must Date and Sign This Power of Attorney)

I sign my name to this medical power of attorney on _____ day of _____ (month, year) at

(City and State)

(Signature)

(Print Name)

Statement of First Witness

I am not the person appointed as agent by this document. I am not related to the principal by blood or marriage. I would not be entitled to any portion of the principal's estate on the principal's death. I am not the attending physician of the principal or an employee of the attending physician. I have no claim against any portion of the principal's estate on the principal's death. Furthermore, if I am an employee of a health care facility in which the principal is a patient, I am not involved in providing direct patient care to the principal and am not an officer, director, partner, or business office employee of the health care facility or of any parent organization of the health care facility.

Signature: _____

Print Name: _____ Date: _____

Address: _____

Signature of Second Witness

Signature: _____

Print Name: _____ Date: _____

Address: _____

Frequently Asked Questions about Advance Care Planning

What is Advance Care Planning?

Advance care planning means planning ahead for how you want to be treated if you are very ill or near death. Sometimes when people are in an accident or have an illness that will cause them to die they are not able to talk or to let others know how they feel. Texas law allows you to tell your doctor how you want to be treated by using an advance directive. Chapter 166 of the Texas Health and Safety code is the state law on advance care planning through advance directives. Chapter 166 explains advance directives, includes forms to use for advance directives and states how medical decisions can be made when a person does not have an advance directive.

Advance care planning is a 5-step process.

- Thinking about what you would want to happen if you could not talk or communicate with anyone
- Finding out about what kind of choices you will need to make if you become very ill at home, in a nursing home or in a hospital
- Talking with your family and doctor about how you want to be treated
- Filling out papers that spell out what you want if you are in an accident or become sick
- Telling people what you have decided

Questions and Answers about Advance Care Planning

If I get too sick to say what kind of help I want from doctors or nurses, what can I do?

Putting your wishes in writing makes sure that everyone knows what you want. You can do this using a form called the *Directive to Physicians, Family and Surrogates*. This form is also sometimes called a *Living Will*. The form tells doctors, family members or other people who are close to you the type of help you want when you are sick and how you want to be treated. The document includes written instructions on things that you do want and DO NOT want done to you.

Do I have to fill out this form?

No. No one can make you fill out the form. But with it the people helping you will know what you want if you can't tell them.

Can I change my mind about what I say on the form?

Yes. You can do that at any time you want. If you change your mind, you must make out a new form and throw away the old one rather than make changes to the old form. That way no one will make a mistake when they are trying to help you.

It is also a good idea to tell your family and doctor that you have changed your wishes.

Remember, this form can only be used when you can't tell people what you want. If you are awake and able to say what you want, then that is the only thing that matters.

Can someone speak for me if I am not able to say what I want?

Yes. You can fill out a form called a *Medical Power of Attorney*. This form lets you name someone to speak for you. The person you name is called an *agent* on the form. You can choose anyone you want to be your agent. It does not have to be a member of your family. But remember, it is always important for your family and agent to know what you want before something happens to you.

If you don't name someone to be your agent, then state law has a set of rules for how decisions will be made for you.

What are the rules?

Do I need a lawyer to fill out any of these forms?

No. You can fill them out yourself. You can ask a lawyer to help you, but you do not have to. Once you have filled out the forms, all you have to do to make them legal is sign them in front of the proper witnesses. You do not need a notary public.

Do doctors, nurses and hospitals have to follow my instructions?

Yes, unless they inform you in advance that they cannot. If they do not intend to honor your wishes, they are required to give you a reasonable opportunity to or assist you to transfer to a physician or health care provider who will comply with your wishes. Health care professionals cannot simply ignore your wishes.

Other Questions about Hospitals and Nursing Facilities and Treatment at the End of Life

Sometimes people have questions about when it makes sense for them to move from a nursing facility to a hospital. The following information tries to answer some of those questions.

If I'm in a nursing facility and get very sick, should I stay where I am or go to the hospital?

This is a choice you will have to make after you talk to your doctor or family members. If you can get the care you need where you are, it is often safer and more comfortable to stay in the nursing facility. Moving to the hospital can cause problems because the people working there do not know everything about you. Sometimes this leads to problems with medications, pressure sores and infections. Ask your doctor if there are things you need that the nursing facility can't do for you. Make sure you understand all the risks in moving or staying where you are.

What is an Out-of-Hospital Do Not Resuscitate Order (OOHDNR)?

This form is for use when you are not in the hospital. It lets you tell health care workers, including Emergency Medical Services (EMS) workers, NOT to do some things if you stop breathing or your heart stops. If you don't have one of these forms filled out, EMS workers will ALWAYS give you CPR or advanced life support even if your advance care planning forms say not to. You should complete this form as well as the Directive to Physicians and Family or Surrogates and the Medical Power of Attorney form if you don't want CPR.

What is Cardiopulmonary Resuscitation (CPR)?

You have probably seen this on TV. CPR is pressing on your chest to keep blood flowing and also assistance with breathing, such as mouth to mouth assistance. Sometimes electrical shocks are used to help start the heart. CPR is only used for short periods until a person can get to the hospital.

Does CPR always work?

No. It depends on other things, including your overall health and your age. Everyone is different. It does not work very well for most people who have a life-threatening illness or are over 80. You should talk about CPR with your doctor and discuss what is best for you and what best fits with your personal values and goals.

What is Artificial Respiration or Ventilation?

This means getting assistance with breathing when you can't breathe on your own. A tube is put into your nose or mouth or into your windpipe. If this tube is needed for more than a few weeks, a surgeon will probably need to put the tube directly into your throat. Doing this causes problems with talking, eating and drinking. The tube is also attached to a machine, which makes it harder to move around.

Eating, Drinking and Pain During a Terminal Illness

What is Artificial Nutrition and Hydration?

These are medical treatments that allow a person to get food and water when they cannot eat or drink. Fluids can be given through a needle placed in a vein (IV). This is usually done for only a few days because of the risk of infection and because it is hard to keep the needle in place. Sometimes food and water are given through a tube that goes down the nose and throat into the stomach. If the tube needs to be in place for a long time, it is placed directly into the stomach by a surgeon.

These different kinds of tube feeding are different from ordinary eating and drinking because they don't let the person taste or feel food and liquids like they are used to doing. Also, the person is not in control of their food or liquid intake. Doctors and nurses decide how much food and water they should have in this way.

Do Artificial Nutrition and Hydration Make People Live Longer?

Sometimes, but not always. How effective these kinds of treatment are depends on other medical problems. When a person with a terminal illness can't eat or drink it usually means that the body has stopped working like it should and it will not improve. If this is the case, tube feeding alone will not make the person healthy again. It may even make the person uncomfortable during their final days.

What about Pain and Comfort?

If a person has a medical problem that will cause them to die and they don't want artificial treatment, they can still be comfortable. Making people comfortable during the final part of their life is called *palliative care*. Even if there is no cure for a condition, doctors can treat pain, nausea and discomfort. Comfort should always be part of the treatment plan that a doctor discusses with a patient or family.

The importance of Advance Care Planning

Everyone is going to die sometime, but not everyone gets to choose how they are treated at the end of their lives. Taking the time to do advance care planning can help family members and medical staff act for you. They will be faced with hard decisions near the time of your death. Having an advance care plan lets you make sure that you are treated according to your values and wishes regardless of whether you can speak for yourself.

Notice To Person Making a Declaration For Mental Health Treatment

Chapter 137, Title 6, Civil Practice and Remedies Code

This is an important legal document. It creates a declaration for mental health treatment. Before signing this document, you should know these important facts:

This document allows you to make decisions in advance about mental health treatment and specifically three types of mental health treatment: psychoactive medication, convulsive therapy, and emergency mental health treatment. The instructions that you include in this declaration will be followed only if a court believes that you are incapacitated to make treatment decisions. Otherwise, you will be considered able to give or withhold consent for the treatments.

This document will continue in effect for a period of three years unless you become incapacitated to participate in mental health treatment decisions. If this occurs, the directive will continue in effect until you are no longer incapacitated.

You have the right to revoke this document in whole or in part at any time you have not been determined to be incapacitated. **YOU MAY NOT REVOKE THIS DECLARATION WHEN YOU ARE CONSIDERED BY A COURT TO BE INCAPACITATED.** A revocation is effective when it is communicated to your attending physician or other health care provider.

If there is anything in this document that you do not understand, you should ask a lawyer to explain it to you. This declaration is not valid unless it is signed by two qualified witnesses who are personally known to you and who are present when you sign or acknowledge your signature.

Declaration For Mental Health Treatment

I, _____, being an adult of sound mind, wilfully and voluntarily make this declaration for mental health treatment to be followed if it is determined by a court that my ability to understand the nature and consequences of a proposed treatment, including the benefits, risks, and alternatives to the proposed treatment, is impaired to such an extent that I lack the capacity to make mental health treatment decisions. "Mental health treatment", means electroconvulsive or other convulsive treatment, treatment of mental illness with psychoactive medication, and preferences regarding emergency mental health treatment.

(Optional Paragraph) I understand that I may become incapable of giving or withholding informed consent for mental health treatment due to the symptoms of a diagnosed mental disorder. These symptoms may include:

Psychoactive Medications

If I become incapable of giving or withholding informed consent for mental health treatment, my wishes regarding psychoactive medications are as follows:

_____ I consent to the administration of the following medications:

_____ I do not consent to the administration of the following medications:

_____ I consent to the administration of a federal Food and Drug Administration approved medication that was only approved and in existence after my declaration and that is considered in the same class of psychoactive medications as stated below:

Conditions or limitations: _____

Convulsive Treatment

If I become incapable of giving or withholding informed consent for mental health treatment, my wishes regarding convulsive treatment are as follows:

_____ I consent to the administration of convulsive treatment.

_____ I do not consent to the administration of convulsive treatment.

Conditions or limitations: _____

Preferences For Emergency Treatment

In an emergency, I prefer the following treatment FIRST (circle one)

Restraint Seclusion Medication.

In an emergency, I prefer the following treatment SECOND (circle one)

Restraint Seclusion Medication.

In an emergency, I prefer the following treatment THIRD (circle one)

Restraint Seclusion Medication.

_____ I prefer a male/female to administer restraint, seclusion, and/or medications.

Options for treatment prior to use of restraint, seclusion, and or medications:

Conditions or limitations: _____

Additional Preferences or Instructions

Conditions or limitations: _____

Signature of Principal/Date: _____

Statement of Witnesses

I declare under penalty of perjury that the principal's name has been represented to me by the principal, that the principal signed or acknowledged this declaration in my presence, that I believe the principal to be of sound mind, that the principal has affirmed that the principal is aware of the nature of the document and is signing it voluntarily and free from duress, that the principal requested that I serve as witness to the principal's execution of this document, and that I am not a provider of health or residential care to the principal, an employee of a provider of health or residential care to the principal, an operator of a community health care facility providing care to the principal, or an employee of an operator of a community health care facility providing care to the principal.

I declare that I am not related to the principal by blood, marriage, or adoption and that to the best of my knowledge I am not entitled to and do not have a claim against any part of the estate of the principal on the death of the principal under a will or by operation of law.

Witness Signature: _____

Print Name: _____

Date: _____

Address: _____

Witness Signature: _____

Print Name: _____

Date: _____

Address: _____

Procedure When Person Has Not Executed or Issued a Directive and Is Incompetent or Incapable of Communication

(Surrogate Decision that may include withholding or withdrawing life sustaining treatment)

The Advance Directives Act (see §166.039, Health and Safety Code)

"Qualified patient" means a patient with a terminal or irreversible condition that has been diagnosed and certified in writing by the attending physician.

"Irreversible condition" means a condition, injury or illness:

- a. that may be treated but is never cured or eliminated;
- b. that leaves a person unable to care for or make decisions for the person's own self; and
- c. that without life-sustaining treatment provided in accordance with the prevailing standard of medical care, is fatal.

"Terminal condition" means an incurable condition caused by injury, disease, or illness that according to reasonable medical judgement will produce death within six months, even with available life-sustaining treatment provided in accordance with the prevailing standard of medical care.

If an adult qualified patient has not executed or issued a directive and is incompetent, or otherwise mentally or physically incapable of communication, the attending physician and the resident's legal guardian or an agent under a medical power of attorney may make a treatment decision that may include a decision to withhold or withdraw life-sustaining treatment from the resident.

If the patient does not have a legal guardian or an agent under a medical power of attorney, the attending physician and **one person**, if available, from one of the following categories, in the following priority, may make a treatment decision that may include a decision to withhold or withdraw life-sustaining treatment.

- the patient's spouse;
- the patient's reasonably available adult children;
- the patient's parents; or
- the patient's nearest relative

A treatment decision must be based on knowledge of what the patient would desire, if known, and must be documented in the patient's medical record and signed by the attending physician.

If the patient does not have a legal guardian and a person listed in this section is not available, a treatment decision made under this section must be concurred in by another physician who is not involved in the treatment of the patient or who is a representative of an ethics or medical committee of the health care facility in which the person is a patient.

The fact that an adult qualified patient has not executed or issued a directive does not create a presumption that the patient does not want a treatment decision to be made to withhold or withdraw life-sustaining treatment.

A relative listed in this section who wishes to challenge a treatment decision made by other relatives under this section must apply for temporary guardianship under Section 875, Texas Probate Code. The court may waive applicable fees in that proceeding.

_____, has not executed or issued a directive and has no legal guardian or an agent under a medical power of attorney. The above named individual is incompetent, or otherwise mentally or physically incapable of communication. The following is a brief description of:

(1) the patient's physical and mental condition, including diagnoses and description of terminal illness:

(2) any treatment desires of the patient if known:

(3) physician or physician/family-determined treatment decisions:

Attending Physician _____ Date _____

Family Member Signature _____ Date _____

Relationship to Patient _____

Second Physician (if required) _____ Date _____