

ARKANSAS

Advance Directive

Planning for Important Healthcare Decisions

Caring Connections

1700 Diagonal Road, Suite 625, Alexandria, VA 22314

www.caringinfo.org

800/658-8898

Caring Connections, a program of the National Hospice and Palliative Care Organization (NHPCO), is a national consumer engagement initiative to improve care at the end of life, supported by a grant from The Robert Wood Johnson Foundation.

Caring Connections tracks and monitors all state and federal legislation and significant court cases related to end-of-life care to ensure that our advance directives are up to date.

It's About How You LIVE

It's About How You LIVE is a national community engagement campaign encouraging individuals to make informed decisions about end-of-life care and services. The campaign encourages people to:

Learn about options for end-of-life services and care

Implement plans to ensure wishes are honored

Voice decisions to family, friends and healthcare providers

Engage in personal or community efforts to improve end-of-life care

Please call the HelpLine at 800/658-8898 to learn more about the LIVE campaign, obtain free resources, or join the effort to improve community, state and national end-of-life care.

If you would like to make a contribution to help support our work, please visit www.nationalhospicefoundation.org/donate. Contributions to national hospice programs can also be made through the Combined Health Charities or the Combined Federal Campaign by choosing #11241.

**Support for this program is provided by a grant from
The Robert Wood Johnson Foundation, Princeton,
New Jersey**

Copyright © 2005 National Hospice and Palliative Care Organization. All rights reserved. Revised 2007. Reproduction and distribution by an organization or organized group without the written permission of the National Hospice and Palliative Care Organization is expressly forbidden.

Your Advance Care Planning Packet

Using these materials	3
Summary of the HIPAA Privacy Rule	4
Introduction to Arkansas Advance Directive	6
Instructions for Completing Arkansas Advance Directive for Healthcare	7
Arkansas Declaration	10
Arkansas Durable Power of Attorney for Healthcare	12
You Have Filled Out Your Advance Directive, Now What?	14
Glossary	Appendix A
Legal & End-of-Life Care Resources Pertaining to Healthcare Advance Directives	Appendix B

Using these materials

BEFORE YOU BEGIN

1. Check to be sure that you have the materials for each state in which you may receive healthcare.
2. These materials include:
 - Instructions for preparing your advance directive.
 - Your state-specific advance directive forms, which are the pages with the gray instruction bar on the left side.

PREPARING TO COMPLETE YOUR ADVANCE DIRECTIVE

3. Read the HIPAA Privacy Rule Summary on page 4.
4. Read all the instructions, on pages 7 through 9, as they will give you specific information about the requirements in your state.
5. Refer to the Glossary located in Appendix A if any of the terms are unclear.

ACTION STEPS

6. You may want to photocopy these forms before you start so you will have a clean copy if you need to start over.
7. When you begin to fill out the forms, refer to the gray instruction bars - they will guide you through the process.
8. Talk with your family, friends, and physicians about your advance directive. Be sure the person you appoint to make decisions on your behalf understands your wishes.
9. Once the form is completed and signed, photocopy the form and give it to the person you have appointed to make decisions on your behalf, your family, friends, healthcare providers and/or faith leaders so that the form is available in the event of an emergency.

If you have questions or need guidance in preparing your advance directive or about what you should do with it after you have completed it, please refer to the state-specific contacts for Legal & End-of-Life Care Resources Pertaining to Healthcare Advance Directives, located in Appendix B.

Summary of the HIPAA Privacy Rule

HIPAA is a federal law that gives you rights over your health information and sets rules and limits on who can look at and receive your health information.

Your Rights

You have the right to:

- Ask to see and get a copy of your health records.
- Have corrections added to your health information.
- Receive a notice that tells you how your health information may be used and shared.
- Decide if you want to give your permission before your health information can be used or shared for certain purposes, such as marketing.
- Get a report on when and why your health information was shared for certain purposes.
- If you believe your rights are being denied or your health information isn't being protected, you can:
 - File a complaint with your provider or health insurer, or
 - File a complaint with the U.S. Government.

You also have the right to ask your provider or health insurer questions about your rights. You also can learn more about your rights, including how to file a complaint from the Web site at www.hhs.gov/ocr/hipaa/ or by calling 1-866-627-7748.

Who Must Follow this Law?

- Doctors, nurses, pharmacies, hospitals, clinics, nursing homes, and many other healthcare providers.
- Health insurance companies, HMOs, most employer group health plans.
- Certain government programs that pay for healthcare, such as Medicare and Medicaid.

What Information is Protected?

- Information your doctors, nurses, and other healthcare providers put in your medical record.
- Conversations your doctor has had about your care or treatment with nurses and other healthcare professionals.
- Information about you in your health insurer's computer system.
- Billing information about you from your clinic/healthcare provider.
- Most other health information about you, held by those who must follow this law.

Summary of the HIPAA Privacy Rule (continued)

Providers and health insurers who are required to follow this law must keep your information private by:

- Teaching the people who work for them how your information may and may not be used and shared,
- Taking appropriate and reasonable steps to keep your health information secure.

To make sure that your information is protected in a way that does not interfere with your healthcare, your information can be used and shared:

- For your treatment and care coordination,
- To pay doctors and hospitals for your healthcare,
- With your family, relatives, friends or others you identify who are involved with your healthcare or your healthcare bills, unless you object,
- To protect the public's health, such as reporting when the flu is in your area, or
- To make required reports to the police, such as reporting gunshot wounds.

Your health information cannot be used or shared without your written permission unless this law allows it. For example, without your authorization, your provider generally cannot:

- Give your information to your employer.
- Use or share your information for marketing or advertising purposes, or
- Share private notes about your mental health counseling sessions.

Introduction to Your Arkansas Advance Directive

This packet contains two legal documents that protect your right to refuse medical treatment you do not want, or to request treatment you do want, in the event you lose the ability to make decisions yourself.

1. The **Arkansas Declaration** is your state's living will. It allows you to state your wishes about medical care in the event that you either: (1) develop a terminal condition and are unable to make your own medical decisions; or (2) you are in a permanently unconscious state. The Declaration becomes effective when you are in either of these states, your doctor and one other doctor has determined you are in such a state, and the Declaration has been communicated to your doctor.

The Declaration lets you name a Health Care Proxy to make decisions about your medical care—including decisions about life support — if you can no longer make your own decisions about healthcare. Your proxy can only make decisions for you if you become terminally ill or permanently unconscious.

2. The **Arkansas Durable Power of Attorney for Healthcare** lets you name someone to make decisions about your medical care any time you lose the ability to make medical decisions yourself.

Note: These documents will be legally binding only if the person completing them is a competent adult (at least 18 years old).

Instructions for Completing Your Arkansas Declaration

How do I make my Arkansas Declaration legal?

The law requires that you sign your Declaration in the presence of two witnesses, who must also sign to show that you voluntarily signed the documents.

Whom should I appoint as my Healthcare Proxy?

In your Declaration, you may designate a Health Care Proxy. Your Health Care Proxy is the person you appoint to make decisions about your medical care if you become permanently unconscious or are both terminally ill and unable to make decisions for yourself. Your Healthcare Proxy can be a family member or a close friend whom you trust to make serious decisions.

The person you name as your Healthcare Proxy must be 18 years old or older, clearly understand your wishes and be willing to accept the responsibility of making medical decisions for you. (A proxy may also be called an "agent" or "attorney-in-fact.")

Can I add personal instructions to my Declarations?

Yes. You can add personal instructions in the section called "Other directions."

What if I change my mind?

You may revoke a Declaration at any time and in any manner, regardless of your mental or physical condition. Your revocation becomes effective when you (or a witness to your revocation) notify your doctor or other healthcare provider, who must then make the revocation a part of your medical record.

What other important facts should I know?

Due to restrictions in the state law, a pregnant patient's Arkansas Declaration will not be honored if it is possible that the fetus could develop to the point of live birth with continued application of life-sustaining treatment.

Instructions for Completing Your Arkansas Declaration (continued)

What facts about organ donation should I know?

Who may receive your anatomical gift

Under Arkansas law, you may make a gift of all or part of your body for transplantation, therapy, research, or education to any of the following entities: a tissue or eye bank or any other organ procurement organization; hospital; accredited medical school, dental school, college, or university; or any individual designated as the recipient by you.

How you can make a gift

You can use the Arkansas Declaration form to make a donation. You can also donate your organs in any of these other ways: (1) by authorizing a statement indicating your intent to donate in your driver's license application; (2) by signing a donor card; (3) by indicating in a will; or (4) by making any statement to at least two adults, at least one of whom is a disinterested witness (i.e. not a family member nor potential recipient of the gift).

How others can make a gift for you

Unless you explicitly prohibit such gifts in your Declaration or other signed document, your attorney for health care (or, if you did not designate such a person, a family member) has the authority to make anatomical gifts on your behalf.

How to refuse to make a gift

You can refuse to make an anatomical gift by making such a statement in your Declaration.

You can also refuse to make a gift in any of these other ways: (1) any writing signed by you refusing to make such donations; (2) in your will; or (3) during a terminal illness or injury, you communicate such refusal to at least two adults, at least one of whom is a disinterested witness (i.e. not a family member nor potential recipient of your donation.)

Revocation suspension, expiration or cancellation of a driver's license on which you noted consent to make a gift does not invalidate your gift.

Completing Your Arkansas Durable Power of Attorney for Healthcare

Whom should I appoint as my healthcare Power of Attorney?

A healthcare power of attorney is the person you appoint to make decisions about your medical care if you become unable to make those decisions yourself. Your power of attorney may be a family member or a close friend whom you trust to make serious decisions. The person you name as your power of attorney should clearly understand your wishes and be willing to accept the responsibility of making medical decisions for you. (A healthcare power of attorney may also be called an “attorney-in-fact” or “proxy.”) The person you appoint as your healthcare power of attorney may be the same person you appoint as your Healthcare Proxy in you Arkansas Declaration.

You can appoint a second person as your alternate healthcare power of attorney. The alternate will step in if the first person you name as healthcare power of attorney is unable, unwilling or unavailable to act for you.

How do I make my Arkansas Durable Power of Attorney for Healthcare legal?

The law requires that you sign your Durable Power of Attorney for Healthcare in the presence of two witnesses who are at least eighteen (18) years of age.

Should I add personal instructions to my Arkansas Durable Power of Attorney for Healthcare?

One of the strongest reasons for naming a healthcare power of attorney is to have someone who can respond flexibly as your medical situation changes and deal with situations that you did not foresee. If you add instructions to this document, you might unintentionally restrict your healthcare power of attorney’s power to act in your best interest.

Talk with your healthcare power of attorney about your future medical care and describe what you consider to be an acceptable “quality of life”. If you want to record your wishes about specific treatments or conditions, you should use your Arkansas Declaration (the living will).

What if I change my mind?

Although state law does not specifically list ways by which you may revoke your Durable Power of Attorney for Healthcare, you may revoke your Durable Power of Attorney for Healthcare at any time by executing a new Durable Power of Attorney for Healthcare or by otherwise specifying in writing that you wish to revoke it.

ARKANSAS DECLARATION - PAGE 1 OF 2

INSTRUCTIONS

If I should either (1) have an incurable or irreversible condition that will cause my death within a relatively short time, and I am no longer able to make decisions regarding my medical treatment; or (2) if I should become permanently unconscious, I direct my attending physician, pursuant to the Arkansas Rights of the Terminally Ill or Permanently Unconscious Act, to withhold or withdraw treatments that only prolong the process of dying and are not necessary to my comfort or to alleviate pain.

INITIAL THE OPTION(S) THAT REFLECT YOUR WISHES

In addition, the following specific directives apply (initial the option(s) that apply):

- a. It is my specific directive that nutrition may be withheld after consultation with my attending physician.
- b. It is my specific directive that hydration may be withheld after consultation with my attending physician.
- c. It is my specific directive that nutrition may not be withheld.
- d. It is my specific directive that hydration may not be withheld.

ADD PERSONAL INSTRUCTIONS (IF ANY)

Other Directions:

PRINT THE NAME OF YOUR PROXY

I direct my attending physician, pursuant to the Arkansas Rights of the Terminally Ill or Permanently Unconscious Act, to follow the instructions of

_____ (name of proxy)

whom I appoint as my Health Care Proxy to make medical treatment decisions on my behalf, including whether life-sustaining treatment should be withheld or withdrawn.

SIGN AND DATE THE DOCUMENT AND PRINT YOUR ADDRESS

Signed this _____ day of _____, _____.
(day) (month) (year)

Signature _____

Address _____

© 2005 National Hospice and Palliative Care Organization
2007 Revised.

ARKANSAS DECLARATION - PAGE 2 OF 2

ORGAN DONATION
(OPTIONAL)

ORGAN DONATION (OPTIONAL)

Initial the line next to the statement below that best reflects your wishes. You do not have to initial any of the statements. If you do not initial any of the statements, your attorney for health care or other agent, or your family, may have the authority to make a gift of all or part of your body under Arkansas law.

INITIAL THE
OPTION THAT
REFLECTS YOUR
WISHES

_____ I do not want to make an organ or tissue donation and I do not want my agent or family to do so.

_____ I have already signed a written agreement or donor card regarding organ and tissue donation with the following individual or institution:

ADD NAME OR
INSTITUTION (IF
ANY)

Name of individual/institution: _____

_____ Pursuant to Arkansas law, I hereby give, effective on my death:

_____ Any needed organ or parts.

_____ The following part or organs listed below:

For (initial one):

_____ Any legally authorized purpose.

_____ Transplant or therapeutic purposes only.

Declarant name: _____

PRINT YOUR NAME,
SIGN, AND DATE
THE DOCUMENT

Declarant signature: _____, Date: _____

The declarant voluntarily signed or directed another person to sign this writing in my presence.

WITNESSING
PROCEDURE

Witness _____

Address _____

YOUR
WITNESSES
MUST SIGN AND
PRINT THEIR
ADDRESSES

Witness _____

Address _____

© 2005 National
Hospice and
Palliative Care
Organization
2007 Revised.

Courtesy of Caring Connections
1700 Diagonal Road, Suite 625, Alexandria, VA 22314
www.caringinfo.org, 800/658-8898

**ARKANSAS DURABLE POWER OF ATTORNEY FOR HEALTH CARE
- PAGE 1 OF 2**

INSTRUCTIONS

PRINT YOUR
NAME

I, _____, hereby
(your name)

PRINT NAME, HOME
ADDRESS, AND
TELEPHONE
NUMBER OF YOUR
AGENT

appoint:

(name, home address and telephone number of agent)

as my health care agent to make any and all health care decisions for me, except to the extent that I state otherwise.

This Durable Power of Attorney for Health Care shall take effect in the event I become unable to make my own health care decisions. My health care agent and any alternate health care agent as appointed below shall have the authority to make all health care decisions regarding any care, treatment, service, or procedure to maintain, diagnose, treat, or provide for my physical or mental health or personal care.

If I should either (1) have an incurable or irreversible condition that will cause my death within a relatively short time and I am no longer able to make decisions regarding my medical treatment; or (2) if I should become permanently unconscious, my health care agent and any alternate health care agent shall also have the authority to make decisions regarding the providing, withholding or withdrawing of life sustaining treatment pursuant to the Arkansas Rights of the Terminally Ill or Permanently Unconscious Act.

ADD PERSONAL
INSTRUCTIONS
(IF ANY)

Optional Instructions:

PRINT NAME, HOME
ADDRESS, AND
TELEPHONE
NUMBER OF YOUR
ALTERNATE AGENT

If the health care agent I appoint is unable, unwilling or unavailable to act as my health care agent, then I appoint:

(name, home address and telephone number of alternate agent)

© 2005 National
Hospice and
Palliative Care
Organization
2007 Revised.

as my alternate health care agent.

**ARKANSAS DURABLE POWER OF ATTORNEY FOR HEALTH CARE
- PAGE 2 OF 2**

SIGN AND DATE
THE DOCUMENT
AND PRINT YOUR
ADDRESS

Signed this _____ day of _____, _____.
(day) (month) (year)

Signature _____

Address _____

WITNESSING
PROCEDURE

Statement by Witnesses (must be 18 or older):

I declare that the person who signed this document appeared to execute the durable power of attorney for health care willingly and free from duress. He or she signed (or asked another to sign for him or her) this document in my presence.

YOUR WITNESSES
MUST SIGN AND
PRINT THEIR
NAMES AND
ADDRESSES

Witness _____
(Sign and Print name)

Address _____

Witness _____
(Sign and Print name)

Address _____

© 2005 National
Hospice and
Palliative Care
Organization
2007 Revised.

*Courtesy of Caring Connections
1700 Diagonal Road, Suite 625, Alexandria, VA 22314
www.caringinfo.org, 800/658-8898*

You Have Filled Out Your Advance Directive, Now What?

1. Your Arkansas Declaration and Durable Power of Attorney for healthcare are important legal documents. Keep the original signed documents in a secure but accessible place. Do not put the original documents in a safe deposit box or any other security box that would keep others from having access to them.
2. Give photocopies of the signed originals to your agent, alternate agent, proxy, doctor(s), family, close friends, clergy and anyone else who might become involved in your healthcare. If you enter a nursing home or hospital, have photocopies of your documents placed in your medical records.
3. Be sure to talk to your proxy, agent, doctor(s), clergy, and family and friends about your wishes concerning medical treatment. Discuss your wishes with them often, particularly if your medical condition changes.
4. If you want to make changes to your document after it has been signed and witnessed, you must complete new documents.
5. Remember, you can always revoke your Arkansas Declaration and Durable Power of Attorney for healthcare.
6. Be aware that your Arkansas documents will not be effective in the event of a medical emergency. Ambulance personnel are required to provide cardiopulmonary resuscitation (CPR) unless they are presented with either an Emergency Medical Services Do Not Resuscitate Order entered on a form approved by the Arkansas Department of Health or with a Do Not Resuscitate identification approved by the Arkansas Department of Health. The Emergency Medical Services Do Not Resuscitate Orders and Identification are designed for people whose poor health gives them little chance of benefiting from CPR. The Emergency Medical Services Do Not Resuscitate Order must be signed by your physician and instruct ambulance personnel not to attempt CPR if your heart or breathing should stop. Ambulance personnel may follow these orders only with respect to adult patients.

Currently not all states have laws authorizing non-hospital do-not-resuscitate orders. We suggest you speak to your physician for more information. **Caring Connections does not distribute these forms.**

Appendix A

Glossary

Advance directive - A general term that describes two kinds of legal documents, living wills and medical powers of attorney. These documents allow a person to give instructions about future medical care should he or she be unable to participate in medical decisions due to serious illness or incapacity. Each state regulates the use of advance directives differently.

Artificial nutrition and hydration – Artificial nutrition and hydration supplements or replaces ordinary eating and drinking by giving a chemically balanced mix of nutrients and fluids through a tube placed directly into the stomach, the upper intestine or a vein.

Brain death – The irreversible loss of all brain function. Most states legally define death to include brain death.

Capacity - In relation to end-of-life decision-making, a patient has medical decision making capacity if he or she has the ability to understand the medical problem and the risks and benefits of the available treatment options. The patient's ability to understand other unrelated concepts is not relevant. The term is frequently used interchangeably with competency but is not the same. Competency is a legal status imposed by the court.

Cardiopulmonary resuscitation - Cardiopulmonary resuscitation (CPR) is a group of treatments used when someone's heart and/or breathing stops. CPR is used in an attempt to restart the heart and breathing. It may consist only of mouth-to-mouth breathing or it can include pressing on the chest to mimic the heart's function and cause blood to circulate. Electric shock and drugs also are used frequently to stimulate the heart.

Do-Not-Resuscitate (DNR) order - A DNR order is a physician's written order instructing healthcare providers not to attempt cardiopulmonary resuscitation (CPR) in case of cardiac or respiratory arrest. A person with a valid DNR order will not be given CPR under these circumstances. Although the DNR order is written at the request of a person or his or her family, it must be signed by a physician to be valid. A non-hospital DNR order is written for individuals who are at home and do not want to receive CPR.

Emergency Medical Services (EMS): A group of governmental and private agencies that provide emergency care, usually to persons outside of healthcare facilities; EMS personnel generally include paramedics, first responders and other ambulance crew.

Healthcare agent: The person named in an advance directive or as permitted under state law to make healthcare decisions on behalf of a person who is no longer able to make medical decisions.

Hospice - Considered to be the model for quality, compassionate care for people facing a life-limiting illness or injury, hospice and palliative care involve a team-oriented approach to expert medical care, pain management, and emotional and spiritual support expressly tailored to the person's needs and wishes. Support is provided to the persons loved ones as well.

Intubation- Refers to "endotracheal intubation" the insertion of a tube through the mouth or nose into the trachea (windpipe) to create and maintain an open airway to assist breathing.

Life-sustaining treatment - Treatments (medical procedures) that replace or support an essential bodily function (may also be called life support treatments). Life-sustaining treatments include cardiopulmonary resuscitation, mechanical ventilation, artificial nutrition and hydration, dialysis, and other treatments.

Living will - A type of advance directive in which an individual documents his or her wishes about medical treatment should he or she be at the end of life and unable to communicate. It may also be called a "directive to physicians", "healthcare declaration," or "medical directive."

Mechanical ventilation - Mechanical ventilation is used to support or replace the function of the lungs. A machine called a ventilator (or respirator) forces air into the lungs. The ventilator is attached to a tube inserted in the nose or mouth and down into the windpipe (or trachea).

Medical power of attorney - A document that allows an individual to appoint someone else to make decisions about his or her medical care if he or she is unable to communicate. This type of advance directive may also be called a healthcare proxy, durable power of attorney for healthcare or appointment of a healthcare agent. The person appointed may be called a healthcare agent, surrogate, attorney-in-fact or proxy.

Palliative care - A comprehensive approach to treating serious illness that focuses on the physical, psychological, spiritual, and existential needs of the patient. Its goal is to achieve the best quality of life available to the patient by relieving suffering, and controlling pain and symptoms.

Power of attorney – A legal document allowing one person to act in a legal matter on another's behalf regarding to financial or real estate transactions.

Respiratory arrest: The cessation of breathing - an event in which an individual stops breathing. If breathing is not restored, an individual's heart eventually will stop beating, resulting in cardiac arrest.

Surrogate decision-making - Surrogate decision-making laws allow an individual or group of individuals (usually family members) to make decisions about medical treatments for a patient who has lost decision-making capacity and did not prepare an advance directive. A majority of states have passed statutes that permit surrogate decision making for patients without advance directives.

Ventilator – A ventilator, also known as a respirator, is a machine that pushes air into the lungs through a tube placed in the trachea (breathing tube). Ventilators are used when a person cannot breathe on his or her own or cannot breathe effectively enough to provide adequate oxygen to the cells of the body or rid the body of carbon dioxide.

Withholding or withdrawing treatment - Forgoing life-sustaining measures or discontinuing them after they have been used for a certain period of time.

Appendix B

Legal & End-of-Life Care Resources Pertaining to Healthcare Advance Directives

LEGAL SERVICES

The Arkansas Area Agency on Aging (AAA) provides free legal services to individuals 55 and older in Arkansas.

You must also be on Medicare and have a low to moderate income.

Individuals over 55 can get legal information on most non-criminal issues, including:

- Living Wills
 - Advance care planning
 - Healthcare directives
 - Civil matters and other issues
-
- You must be 55 and older
 - Must also be on Medicare and have a low to moderate income

To find out more information Contact the Division of Aging and Adult Services:

Call: 501-682-2441

When calling for assistance please have County or Region information available.

To find the AAA in your area, please visit their web site:

<http://www.arkansas.gov/dhhs/aging/aaamap.html>

END-OF-LIFE SERVICES

Area Agency on Aging (AAA) in Arkansas provides resources to individuals over 55, including but not limited:

- Adult Day Care
- Home Healthcare
- Legal Assistance
- Housing
- Transportation
- Information and referrals to other resources

For information on programs and service offered through the AAA, visit their web site:

<http://www.arkansas.gov/dhhs/aging/aaamap.html>

OR

Call toll free: 501-682-2441