



## ADVANCED DIRECTIVES: PLANNING FOR THE “FINAL EXIT”

An Advance Directive (sometimes called a “Living Will”) is a written document which allows you to inform physicians and others of your wishes to receive, decline or withdraw life-sustaining medical care when you have been diagnosed by two physicians to be in a “terminal condition,” a “persistently unconscious state,” or an “end-stage condition.”

The statute defines a **terminal condition** is an “incurable, irreversible condition that will, in the opinion of your attending physician and another physician, result in death within six months even with the administration of life-sustaining treatment” (*i.e.*, respirator, surgery, blood transfusions, medications, etc.). A **persistently unconscious state** is defined as an “irreversible condition as determined by your attending physician and another physician in which thought and awareness of self and environment are absent.” An **end-stage condition** is defined as a “condition caused by disease, illness or injury which results in permanent deterioration indicated by incompetency and complete physical dependency for which treatment of the irreversible condition would be medically ineffective.”

The Advance Directive allows you to specifically instruct your attending physician whether or not you wish to be given life-sustaining treatments and artificially administered nutrition (food) and hydration (water) and to give other medical directions that impact the end of life, including assessing the option of being an organ donor. The purpose of an Advance Directive is to recognize your right to control certain aspects of your medical care and treatment. An Advance Directive may be signed by an individual of sound mind who is 18 years of age or older.

Also, the Advance Directive allows you to appoint a Health Care Proxy to make certain decisions on your behalf. While your Health Care Proxy can make decisions regarding life-sustaining treatment and artificially administered food and water, those decisions must be in agreement with your wishes on those subjects as you specify in your Advance Directive. Therefore, it is important that you discuss your wishes with your Health Care Proxy and that you chose someone who supports your wishes as indicated on your Advance Directive.

An Advance Directive becomes operative when your attending physician and another physician determines that you are no longer able to make decisions regarding your medical treatment and that you are in one of the three defined conditions described above. You may also revoke an

Advance Directive at any time in whole or in part. A revocation is effective upon your communication to your physician or other health care provider or a witness to the revocation. It is also a good idea to make copies of your Advance Directive for your personal records, your family, your physician, your Health Care Proxy and your alternate Health Care Proxy. If your physician is unwilling to comply with the Advance Directive, the physician must tell you.

The Oklahoma Attorney General has also validated the use in Oklahoma of another common advance directive approved in at least thirty-seven states called the *Five Wishes*®. The *Five Wishes*® advance directive was developed by a Florida non-profit organization entitled *Aging with Dignity* ([www.agingwithdignity.org](http://www.agingwithdignity.org)), a proponent for the needs of elders and those who care for them. The founder, Jim Towey, created the *Five Wishes*® through the assistance of doctors, nurses, lawyers, and other experts in end of life care. The main appeal of the *Five Wishes*® document is its simplicity of wording, and its ability to not only authorize the appointment of a proxy (also authorized by statute), but also to express certain “wishes” that are typically of concern to an elder person. According to their website, the five wishes set forth in the document are as follows:

1. Which person you want to make health care decisions for you when you can't make them.
2. The kind of medical treatment you want or don't want.
3. How comfortable you want to be.
4. How you want people to treat you.
5. What you want your loved ones to know.

Although the *Five Wishes*® document is copyrighted and available for a fee from *Aging with Dignity*, Oklahoma attorneys (our firm included) and other organizations or medical providers may make them available.

Our office has received phone calls from family members from time to time upon the admittance of an elderly parent, or other relative, in a medical facility requesting a copy of their Advance Directive, or an original thereof, which we prepared. Keeping close tabs on an individual's Advance Directive or *Five Wishes*® document is critical so that the elder's health care instructions may be readily available to the family members and medical professionals providing care. An individual could carry a wallet card (which our firm provides our clients), evidencing the existence of the document and the location where it may be found, and there now is at least one organization ([www.docubank.com](http://www.docubank.com)) that will maintain, for a fee, a copy of the documents in electronic form, which can be forwarded at any time of the day or night, seven days a week, to a medical facility so that, regardless of the location of the incapacitated person, even if on vacation, their Advance Directive and/or Health Care Power of Attorney can be transmitted anywhere in the world, if needed. Due to the periodic changes in the law, and the adaption of the law to the current medical needs and end-of-life choices of society, the complexities of aging, and the ability of the medical profession to provide “continued life,” careful planning for one's “final exit” becomes ever more an issue of responsible choice about how one wishes to be cared for in the event of traumatic, irreversible injury or disease affecting our ability to communicate our wishes.

It would be wise to review and openly discuss your current advanced directive with your physician, family members, and attorney, to make sure that it coincides with your current wishes and makes fuller use of the recent changes in the law. If you have more questions, feel free to contact us.

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