

Hospice Policy and Procedure Manual

Advance Directives

Policy

The hospice must inform and distribute written information to the patient concerning its policies on advance directives.

Definitions

- A. Advance Directive - a written instruction, such as a living will or durable power of attorney for health care, recognized under State law (whether statutory or as recognized by the courts of the State), relating to the provision of health care when the individual is incapacitated:
 - 1. Directive to Physician
 - 2. Out-of-Hospital DNR
 - 3. Medical Power of Attorney
- B. Artificial Nutrition And Hydration - 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).
- C. Attending Physician - a physician selected by or assigned to a patient who has primary responsibility for a patient's treatment and care.
- D. Cardiopulmonary Resuscitation - any medical intervention used to restore circulatory or respiratory function that has ceased.
- E. Competent - possessing the ability, based on reasonable medical judgment, to understand and appreciate the nature and consequences of a treatment decision, including the significant benefits and harms of and reasonable alternatives to a proposed treatment decision.
- F. Declarant - a person who has executed or issued a directive under this chapter.
- G. Digital Signature - an electronic identifier intended by the person using it to have the same force and effect as the use of a manual signature.
- H. Electronic Signature - a facsimile, scan, uploaded image, computer-generated image, or other electronic representation of a manual signature that is intended by the person using it to have the same force and effect of law as a manual signature.
- I. Ethics Committee - a committee established under Health And Safety Code Title 2. Health Subtitle H. Public Health Provisions Sections 161.031-161.033.
- J. Healthcare Or Treatment Decision - consent, refusal to consent, or withdrawal of consent to health care, treatment, service, or a procedure to maintain, diagnose, or treat an individual's physical or mental condition, including such a decision on behalf of a minor.
- K. Incompetent - lacking the ability, based on reasonable medical judgment, to understand and appreciate the nature and consequences of a treatment decision, including the significant benefits and harms of and reasonable alternatives to a proposed treatment decision.
- L. Irreversible Condition - a condition, injury, or illness:
 - 1. That may be treated but is never cured or eliminated;
 - 2. That leaves a person unable to care for or make decisions for the person's own self; and

Hospice Policy and Procedure Manual

Advance Directives

3. That, without life-sustaining treatment provided in accordance with the prevailing standard of medical care, is fatal.
- M. Life-Sustaining Treatment - 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.
- N. Medical Power of Attorney - a document delegating to an agent authority to make health care decisions.
- O. Physician - a physician licensed by the Texas State Board of Medical Examiners; or a properly credentialed physician who holds a commission in the uniformed services of the United States and who is serving on active duty in this state.
- P. Terminal Condition - 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 patient who has been admitted to a program under which the person receives the hospice services provided by a home and community support services the hospice licensed under Chapter 142 is presumed to have a terminal condition for purposes of this chapter.
- Q. Witness - In any circumstance in which this chapter requires the execution of an Advance Directive or the issuance of a non-written Advance Directive to be witnessed:
1. Each witness must be a competent adult; and
 2. At least one of the witnesses must be a person who is not:
 - a. A person designated by the declarant to make a treatment decision;
 - b. A person related to the declarant by blood or marriage;
 - c. A person entitled to any part of the declarant's estate after the declarant's death under a will or codicil executed by the declarant or by operation of law;
 - d. The attending physician;
 - e. An employee of the attending physician;
 - f. An employee of a health care facility in which the declarant is a patient if the employee is providing direct patient care to the declarant or is an officer, director, partner, or business office employee of the health care facility or of any parent organization of the health care facility; or
 - g. A person, who, at the time the written Advance Directive is executed or, if the directive is a non-written directive issued under this chapter, at the time the non-written directive is issued, has a claim against any part of the declarant's estate after the declarant's death.

Hospice Policy and Procedure Manual

Advance Directives

Procedure

Patient Education

- A. The hospice will provide written information, at the earlier of the time of admission or the time hospice begins providing care, to all patients concerning the patient's right to make decisions concerning such medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate, at the individual's option, advance directives.
 - 1. If, at the time notice, the patient is incompetent or otherwise incapacitated and unable to receive the notice, the hospice will provide the required written notice, in the following order of preference, to:
 - a. The patient's legal guardian;
 - b. A person responsible for the health care decisions of the patient;
 - c. The patient's spouse;
 - d. The patient's adult child;
 - e. The patient's parent; or
 - f. The person admitting the patient.
 - 2. If the hospice is unable, after a diligent search, to locate an individual listed, the hospice is not required to provide the notice.
- B. The hospice will inform patient it does/does not participate in the withdrawal of life sustaining care.
 - 1. Life sustaining procedures the hospice is unable and /or unwilling to withhold in:
 - a. Accordance with a patient's Advance Directive/ and or as discussed with patient (or representative), Attending Physician, and /or the hospice's governing body are:
 - i. Artificial Nutrition
 - ii. Artificial Hydration
 - iii. Mechanical Breathing Machine (oxygen, ventilator, etc.)
 - iv. Total Parenteral Nutrition
 - v. Life Sustaining Medications- (All routes)
 - vi. Dialysis (The hospice will not withdraw follow-up support services such as assessments and coordination of care because patient is at end of life)
 - vii. Any other methods recognized as artificial life support
 - viii. Surgical procedures (discussed on an individual basis with patient (or designated representative), family, physician, and /or The hospice's governing body

Hospice Policy and Procedure Manual

Advance Directives

- ix. CPR (unless patient has a standing DNR or meets other legal criteria for no CPR)
- 2. The hospice:
 - a. Is not required to provide care that conflicts with an advance directive.
 - b. Is not required to implement an advance directive if, as a matter of conscience, the provider cannot implement an advance directive and State law allows any health care provider or any agent of such provider to conscientiously object.
- C. The hospice will inform the patient or representative:
 - 1. The hospice will not discriminate against the patient based on whether or not the patient has executed an advance directive.
 - 2. The existence or lack of an advance directive does not determine the patient's right to access care, treatment, or services.
- D. The hospice will inform patients that complaints concerning the advance directive requirements may be filed with the:
 - 1. The hospice Administrator, or
 - 2. The Texas Health and Human Services Commission
Consumer Rights and Services Division
P.O. Box 149030, Austin, Texas 78714-9030
Toll free 1-800-458-9858.

Documentation

- E. The hospice will document on the Informed Consent whether or not the patient has executed an advance directive.
 - 1. The hospice will obtain a copy of the Advance Directive for the Clinical Record and "flag" the chart appropriately.
 - 2. The hospice will communicate verbally and/or written to the IDG about the Advance Directive(s), or lack of, and any changes, in one, or all, of the following ways:
 - a. Admission Report
 - b. Interdisciplinary Group Meeting
 - c. Patient Demographic Page/Clinical Record
 - 3. The hospice will recognize and honor properly executed advance directives.
- F. The hospice will obtain the patient's or representative's signature confirming that he or she has received information on advance directives on the Informed Consent and will file in the Clinical Record.

Hospice Policy and Procedure Manual

Advance Directives

Personnel Education

- G. The hospice will, on hire and annually, provide education to all personnel on advance directives and to report any violations to their supervisor immediately. Education will be documented and kept in the Personnel Record.

Community Education

- H. The hospice will provide for community education regarding issues concerning advance directives, either directly or in concert with other providers and organizations.
1. Separate community education materials may be developed and used, at the discretion of providers.
 2. The same written materials do not have to be provided in all settings, but the material should define what constitutes an advance directive, emphasizing that an advance directive is designed to enhance an incapacitated individual's control over medical treatment, and describe applicable State law concerning advance directives.
 3. A provider will be able to document its community education efforts.

References

Advance Directives Act, Health and Safety Code, Chapter 166.

Out of Hospital Do Not Resuscitate <http://www.dshs.state.tx.us>

Texas Advance Care Planning forms <http://www.dads.state.tx.us>

Texas Thinking Ahead Booklet <http://www.dads.state.tx.us>