
DECISIONS and CHOICES:

Advance Directives for Medical Care

The purpose of this booklet is to inform you of your rights in making decisions about the medical care you receive and the choices you have in making those decisions. Medical technology provides life-sustaining treatment for critically or terminally ill patients in many forms, including cardiopulmonary resuscitation, respirators, kidney dialysis, artificial nutrition and hydration. Until recently in our culture, the healthcare system often has overlooked the patient as an informed and consenting partner in the decision to prolong life.

Each year, families of patients who are kept alive by such extraordinary measures face agonizing decisions on the kinds of treatment to authorize because they cannot communicate with the patient, and have no idea of what the patient would wish to have done.

In order to help people address these complex issues, a federal law, the Patient Self-Determination Act of 1990, guarantees that individuals receiving medical care will be given written information about their rights under state law to make decisions regarding that care. Effective December 1, 1991, hospitals and other providers of healthcare are required to inform you, as a patient, about your right to accept or refuse medical treatment, the choices you have in preparing advance directives for healthcare and hospital policies regarding the exercise of your rights.

The Montana Rights of the Terminally Ill Act, Montana Code Annotated 50-9-101 through 111; 50-9-210 through 206, provides alternate ways in which a terminally ill person's desires regarding the use of life-sustaining treatment can be implemented legally through advance directives for healthcare. Such directives include a Living Will and a Declaration (power of attorney) appointing a proxy or substitute decision maker, but do not preclude another type of directive.

A Living Will is a legal document which extends your right to refuse medical treatment to a time in the future when (a) you can no longer make or communicate your own treatment decisions and (b) your attending physician has determined that you are in a terminal and irreversible medical condition. It is important to remember that both conditions need to be met before a living will becomes effective. A second form of a living will is a power of attorney, also known as a health care power of attorney, in which you can designate an individual to make medical decisions on your behalf. If you want immediate family to make those kinds of decisions the law automatically provides for your wishes in a priority order (see glossary of definitions). Any advance directive can be revoked at any time.

Advance directives for medical care forms are available at your bedside or upon request from a hospital representative.

Another Montana law titled *Comfort One* gives terminally ill persons who are not hospital patients an opportunity to choose the kind of treatment they want in a medical emergency. By enrolling in Comfort One and displaying the proper identification, patients tell emergency medical personnel that they only wish to be given palliative care (comfort and relief of pain) in an emergency. Only your physician can enroll you in the Comfort One program.

It is important for you to know that advance directives will be in effect only if you are unable to make your healthcare decisions yourself. The provision of care is not conditioned on the existence of an advance directive. In response to the *Patient Self-Determination Act of 1990 and the Montana Rights of the Terminally Ill Act (1991)* St. Peter's Community Hospital has adopted the following administrative policies.

1. Advance directives: a valid living will and/or health care power of attorney will be recognized and considered effective if: (a) the individual is unable to make treatment decisions, and (b) the individual's condition is determined to be terminal or medical intervention is judged to be ineffective in improving the course or outcome in the opinion of the attending physician. The physician must record this finding in the patient's record.
2. Withholding or withdrawal of life support services: life-sustaining treatment may be withheld or withdrawn under one of the following circumstances: I. (a) the patient executed a living will, is unable to make treatment decisions, and statutory requirements have been met (Policy 1.2.8); (b) the condition described in the hospital's do not resuscitate (DNR) policy (1.4.22) have been fulfilled: the patient is terminal as defined in M.C.A. 50-9-102(12), or has a disease wherein medical intervention is not judged to be effective in changing the course or outcome. II. Where there is no living will, guardian or attorney-in-fact, and a responsible family member agrees to the DNR order after being fully informed of the medical judgment, its results, and the patient's rights. III. If the patient is brain dead.
3. Do not resuscitate (DNR): cardiopulmonary resuscitation will be performed on patients having cardiac or respiratory arrest except those having a physician's order stating DNR.

Helpful Hints for Completing Advance Directives

1. A living will or health care power of attorney should not be witnessed by family members.
2. Please do not ask your nurse to witness your living will. Hospital policy precludes nurses from signing any documents other than medical forms.
3. If you need assistance completing a living will ask your nurse to contact a case manager or the chaplain.
4. If you change your mind and want to revoke your living will while in the hospital, tell your nurse. By law any hospital employee must notify your physician.

Glossary - Advance Directives

Advance Directives - "Advance directive" is the umbrella that encompasses all of the various methods, such as a living will and proxy appointment or durable power of attorney, used to embody a patient's wishes regarding the use of life-sustaining treatment, or who will make decisions.

Attorney-in-fact - The person designated to make healthcare decisions for another person, should the latter be incompetent or incapacitated.

Cardiopulmonary Resuscitation (CPR) - The attempt to revive a patient to adequate cardiopulmonary (heart/lung) functioning through the use of manual or mechanical measures. Unique among medical interventions, it is initiated without a physician's order when cardiac or respiratory arrest is identified.

Code 99 - A term used at St. Peter's Community Hospital for emergency resuscitation that may include CPR, artificial breathing, and /or electrical stimulation of the heart. Emergency resuscitation will be initiated unless otherwise specified in a person's medical record.

Comfort One - Gives terminally ill persons who are not hospital inpatients an opportunity to choose the kind of treatment they want in a medical emergency.

Competent/Capable Patient - An adult or emancipated minor patient who is conscious, able to understand the nature and severity of his/her illness and the relative risks and alternatives, and able to make informed and deliberate choices about the treatment of the illness. (Unemancipated minors are able to consent to certain statutory treatment, such as for venereal disease or mental health.)

Durable Power Of Attorney For Healthcare - A legal document that designates another person to make healthcare decisions for a person who becomes unable to make such decisions for themselves. These include giving, withholding, or stopping of any healthcare treatment, service, or diagnostic procedure. It gives the designated person authority to talk with healthcare personnel, get information, and sign any necessary forms needed to carry out the decisions. It takes effect upon the incapacity to act on one's own behalf and continues during that incapacity.

Extraordinary Care - Care which would prolong life when irrefutable evidence indicates biological death is imminent; care judged to be heroic, non-obligatory, excessive, futile,

or unreasonable for a patient with limited prognosis because of disease; cure-oriented life-prolonging therapy for a terminally ill patient.

Incompetent Patient - A patient who is under 18 (unless legally emancipated) or who is unable to understand the nature and consequences of his/her illness or is unable to make choices about the treatment of the illness.

Life-Sustaining Treatment - Any medical procedure, treatment, or intervention that, when administered to a qualified patient, will serve only to prolong the dying process. (Montana Living Will definition 50-9-102(4), M.C.A.) All health care interventions that will have the effect of increasing the life span of the patient.

Living Will - A document initiated by any capable/competent adult person directing both family and physician to withhold or withdraw medical treatment that would only prolong the process of dying in the event of incurable or irreversible conditions.

No Code Order - Identical to DNR.

Priority of Consent - In the absence of an appointed proxy decision maker the order of priority for legal next-of-kin is as follows: 1. The spouse. 2. An adult son/daughter of legal age (18 year of age and above). 3. Either parent. 4. An adult brother or sister of legal age. 5. The nearest other adult relative of the individual by blood or adoption who is reasonably available for consultation.

Terminal Condition - No widely accepted definition. It remains a diagnosis based on medical judgment. An incurable or irreversible condition that, without the administration of life-sustaining procedures, will, in the opinion of the attending physician, result in death in a relatively short time.

Living Will Declaration

To My Family, My Physician, My Clergyman, My Lawyer, My Trust Officer

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, certified to be a terminal condition by my attending physician who has personally examined me and has 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 artificially prolong the dying process, I direct that such procedures be withheld or withdrawn and 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 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. It is my intention that this declaration shall be valid until revoked by me.

Signed: _____ Date: _____

City, County, State of Residence, _____

Date of Birth _____ Social Security Number _____

The declarant voluntarily signed this document in my presence on the

_____ day of, _____ 20_____ .

Witness _____ Address _____

Witness _____ Address _____

Durable Power of Attorney for Health Care

I, _____ of _____
hereby appoint:

Name

Relationship

Address

City, State, Zip Code

Phone Number (including area code)

as my true and lawful attorney or agent ("attorney-in-fact"), to make health care decisions for me, including but not limited to the withholding or withdrawal of life-sustaining treatment, if and when I am unable to make my own health care decisions.

If the person named as my agent above is not available or is unable to act as my agent, then I appoint the following person to serve:

Name

Relationship

Address

City, State, Zip Code

Phone Number (including area code)

By this document, I intend to create a durable power of attorney for health care which shall take effect upon my incapacity to make my own health care decisions and shall continue during that incapacity. Should I be declared terminal, this gives my agent the power to insure that my desires expressed in my Living Will are carried out. This gives my agent the power to consent to giving, withholding or stopping any health care, treatment, service or diagnostic procedure. My agent also has the authority to talk with health care personnel, obtain information and sign forms necessary to carry out these decisions.

Signed this _____ day of _____, 20 ____.

Date of Birth

Social Security Number

Signature

Printed Name

Address

City, State, Zip Code

WITNESS:

I declare that the person whose name is signed to this document is personally known to me, that the person signed this durable power of attorney for health care in my presence, and that the person appears to be of sound mind and under no duress, fraud or undue influence.

I further declare that I am not related to the person who signed this durable power of attorney for health care by blood, marriage or adoption, and to the best of my knowledge, I am not entitled to any part of the person's estate under a will now existing or by operation of law.

WITNESS:

WITNESS:

Signature

Signature

Printed Name

Printed Name

Address

Address

City, State, Zip

City, State, Zip

State of Montana)

: ss.

County of _____)

On this _____ day of _____ 20____, before me, the undersigned, a Notary Public of the State of Montana, personally appeared _____, known to me to be the person whose name is subscribed to the within instrument and acknowledged to be that _____ executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

SEAL

Notary Public for the State of

Residing at:

My Commission expires:

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