

# Advanced Directives

## ***YOUR RIGHTS AS A PATIENT***

### **INTRODUCTION**

When you or your loved one needs medical care, you want the most appropriate and best care available. To achieve this, certain decisions may need to be made involving the kind of care given. As a patient in a Texas surgery center, you have certain legal rights concerning your medical treatment. This brochure is designed to help you understand those rights. After reading this brochure, if you have questions, need further information or wish to execute an advance directive, contact your physician or nurse.

### **INFORMED CONSENT**

Every adult of sound mind has the right to decide what may be done to his or her body in the course of medical treatment. As a patient, you have the right to be told about the nature of your condition, the general nature of the proposed treatment, the risks of failing to undergo treatment, and alternative procedures available.

This information helps you make an informed and rational decision about accepting or declining a proposed treatment. Your physician will discuss with you the risks associated with medical procedures identified under state law.

Texas law allows you to make an “advance directive” concerning your medical care. That is, you may make your wishes concerning medical treatment known before you actually need such care. One type of directive is authorized under the Texas Natural Death Act and is known as a “Directive to Physicians.”

### **DIRECTIVE TO PHYSICIANS**

**Written Directives.** You may sign a Directive to physicians (Directive) concerning your care if you are at least 18 years old, of sound mind, and acting on your own free will in the presence of two “qualified witnesses”. The Directive, also referred to as the “living will”, allows you to instruct your physician not to use artificial methods to prolong the process of dying if you are terminally ill.

**The Directive will not become effective until you have been diagnosed and certified in writing to have a terminal condition by two physicians who have examined you, one of whom is your attending physician.**

If you sign a Directive, talk it over with your physician and ask that it be made part of your medical record.

**Oral Directives.** You may make an oral Directive if you are diagnosed with a terminal condition and are unable to sign a written directive.

### **Directives by Guardian or Family Members**

Should you become comatose or otherwise unable to communicate after being diagnosed with a terminal condition, and if you have not issued a Directive, your attending physician and legal guardian, or certain family members in the absence of a legal guardian, can make decisions concerning withholding or withdrawing life-sustaining treatment.

### **DURABLE POWER OF ATTORNEY FOR HEALTH CARE**

**General Information.** The other type of advance directive is known as a “Durable Power of Attorney for Health Care”. This is a document, signed by a competent adult, designating someone he trusts as an agent to make health care decisions on his behalf should he become unable to make such decisions himself.

**Agents.** Anyone can be your agent other than: 1) your healthcare provider, including a physician, hospital or nursing home, 2) an employee of your health care provider, unless he is a relative of yours, 3) your residential care provider (nursing home, hospice, or other licensed residential care home), or 4) an employee of your residential care provider unless he is related to you.

**Authority of Agent.** An agent has authority to make health care decisions on your behalf *only* when your attending physician certifies, in writing, based on your physician’s reasonable medical judgment, that you lack the capacity to make health care decisions. This certification must be filed in your medical record.

Your agent cannot make a health care decision if you object, regardless of whether you have the capacity to make the health care decision yourself, or whether a Durable Power of Attorney for Health Care is in effect.

An agent who has your Durable Power of Attorney for Health Care has certain duties. Agents must make health care decisions: 1) after consulting with your attending physician, and 2) according to the agent’s knowledge of your wishes,

including your religious and moral beliefs. If your agent does not know your wishes, he must make a health care decision in accordance with what the agent believes is in your best interests.

Your agent may consent, refuse to consent, or withdraw consent to medical treatment and may make decisions about withdrawing or withholding life-sustaining treatment. However your agent may not consent to voluntary inpatient mental health services, convulsive treatment, psychosurgery, abortion, or neglect through omission of care intended to provide comfort.

**Your physician must comply with your agent's instruction or allow you to be transferred to another physician.**

#### **LEGAL ASPECTS OF ADVANCE DIRECTIVES**

Neither the Directive to Physicians nor the Durable Power of Attorney for Health Care needs to be notarized in order to be a legally valid expression of your desires.

Neither Conroe Surgery Center nor your physician may require you to execute a Directive to Physicians under the Texas Natural Death Act or a Durable Power of Attorney for Health Care as a condition for admittance or receiving treatment at Conroe Surgery Center.

The fact that you have executed a Directive to Physicians or a Durable Power of Attorney for Health Care does not change any provision in any insurance policy you may have.

#### **CONROE SURGERY CENTER POLICIES FOR IMPLEMENTING PATIENT'S RIGHTS**

Formal policies have been adopted to assure that your rights to make medical treatment decisions will be honored to the extent permitted by law. Conroe Surgery Center has adopted policies relating to informed consent, implementation of Directives to Physicians under the Texas Natural Death Act and implementation of treatment decisions made by agents appointed under a Durable Power of Attorney for Health Care. If you desire further information about any of these policies, you may contact your nurse or physician.

*Prepared by Texas Hospital Association & Texas Medical Association*

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