

YOUR RIGHT TO MAKE HEALTH CARE DECISIONS

This pamphlet informs you about your right to make health care decisions, including the right to accept or refuse medical treatment. It explains the following advance directives and related subjects:

1. Cardio Pulmonary Resuscitation (CPR Directive)
 2. Substitute Decision Makers (Medical Proxies)
 3. Guardians
 4. Medical Durable Power of Attorney
 5. Living Wills
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Federal law directs that any time you are admitted to any health care facility, or served by certain organizations that receive Medicare or Medicaid money, you must be told about Colorado's laws concerning your right to make health care decisions. This requirement applies to all adult patients no matter what their medical condition. This pamphlet is designed to provide information about your rights under Colorado law to accept or refuse medical treatment, including life support. These are important personal health care decisions and they deserve careful thought. It's a good idea to talk about them with your doctor, family, friends, staff members of your health care facility and possibly a lawyer.

You have the right to consent to (accept) or refuse any medical care and treatment, unless care is ordered by a court. In an emergency, your consent to resuscitation, medical care and treatment is assumed.

If and when you are unable to make your own decisions, Colorado law allows your guardian or your agent "appointed" or "named" under a **medical durable power of attorney** to make your health care decisions. In the absence of an advance medical directive or guardian, Colorado law allows a person close to you to be a substitute decision maker (proxy). In the absence of advance directives, Colorado law requires the physician or the physician's designee to make reasonable efforts to contact those close to the patient for the purpose of seeking a substitute decision maker (proxy).

Medical Durable Power of Attorney and **Living Will** forms which you can use are included as part of this pamphlet. It should be noted, however, that other forms are also acceptable.

INTRODUCTION TO ADVANCE DIRECTIVES

Your right to make medical care decisions includes giving "advance directives" which are written instructions concerning your wishes about your medical treatment. These instructions are used in the event you become unable to make health care decisions for yourself. You must be given information on advance directives by Medicare and Medicaid funded hospitals, nursing homes, HMOs, hospices, home health care and personal care programs at the time you are admitted as a patient or resident in any of those programs or facilities. You must also be given written information on facility and provider policies concerning advance directives. ***Please understand that you are not required to have an advance directive in order to receive care and treatment, or for admission to a facility.*** You must only be informed about them. Whether or not you have an advance directive, you will receive the medical care and treatment appropriate for your condition and consistent with your consent and facility policies.

If you spend a great deal of time in more than one state, you may wish to consider having an advance directive that meets the requirements of the laws of all the states where you spend significant time. You should prepare an advance directive ***before*** you get too sick to think or communicate clearly. In Colorado, the following kinds of advance directives are recognized: the "**living will**" (which applies only in cases of terminal illness); the "**medical durable power of attorney**" (which allows you to name an agent who can make decisions for you) and a "**CPR Directive**" which is a directive telling emergency, other health care personnel and others not to perform CPR on you. ("CPR" means cardio pulmonary resuscitation).

Any **Living Will, Medical Durable Power of Attorney** and **CPR Directive** may include a written statement indicating a decision regarding organ and tissue donation. Organ donation may also be accomplished by signing a separate document executed in accordance with the provisions of the “Uniform Anatomical Gift Act”. You should consult your health care provider for specifics. You should also notify your family of your decision to give an anatomical gift. Completion of an anatomical gift is voluntary.

If you have prepared and signed an advance directive it will represent your wishes if you become unable to make health care decisions for yourself. These documents do not take away your right to decide what you want, if you are able to do so at the time a decision is needed.

If you have an advance directive from another state, it may still be valid in Colorado. However, it is recommended you prepare a new advance directive under Colorado law.

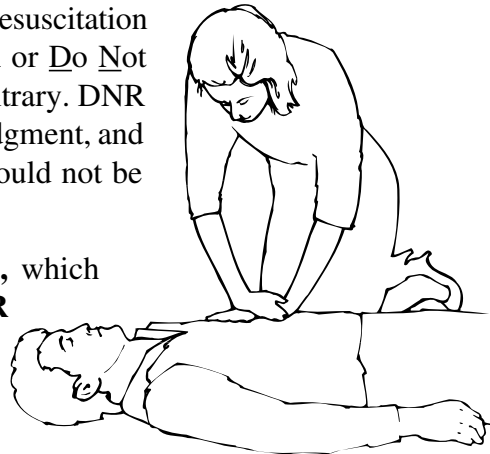
CARDIO PULMONARY RESUSCITATION (CPR) DIRECTIVE

A CPR (Cardio Pulmonary Resuscitation) Directive allows you, your agent, guardian, or proxy to refuse resuscitation. CPR is an attempt to revive someone whose heart and/or breathing has stopped by using special drugs and/or machines or very firm pressing on the chest.

If you have a **CPR Directive**, and your heart and/or lungs stop or malfunction, then paramedics and doctors, emergency personnel or others will not try to press on your chest or use breathing tubes, electric shock, or other procedures to get your heart and/or lungs working again.

Most health care facilities have a policy which requires that resuscitation be done unless there are written physician orders (DNR or Do Not Resuscitate Orders) or patient **CPR Directives** to the contrary. DNR orders are written by a physician when in a physician’s judgment, and often after consultation with the patient, resuscitation would not be appropriate.

Anyone over the age of 18 can sign a **CPR Directive**, which becomes effective upon a physician’s signature. **CPR Directives** are usually signed by patients with terminal illnesses. They are sometimes signed by very frail elderly patients who are not ill at the time but may in the future have small strokes, a weak heart, hardening of the arteries, failing liver or kidney or other conditions. If resuscitation is performed, it may result in the patient being paralyzed, forever unconscious, or unable to speak or understand.



Minors: After a physician issues a “Do Not Resuscitate” order for a minor child, and only then, the parents of the minor, if married and living together, or the custodial parent or the legal guardian may execute a **CPR Directive** for the child.

If you do not have a **CPR Directive** or a DNR Order, your consent to CPR will be assumed. In most situations, hospitals and nursing homes respond as if all patients want resuscitation unless they have refused it. Patients, families and/or agents, guardians or proxies are encouraged to check with the facility in question as to their **CPR Directive** and DNR order policies.

Even if you have other types of advance directives, the use of a **CPR Directive** is strongly recommended if you do not want to be resuscitated. Colorado law does not require that a specific **CPR Directive** form be used. There is a state approved CPR form, but other **CPR Directive** forms may be used. Regardless of the form you use, you should inform family members of your wishes and about the locations of the **CPR Directive** form. If this directive is not found or you are not wearing a CPR necklace or bracelet, CPR will probably be initiated.

Signing a **CPR Directive** will not prevent you from receiving other kinds of needed medical care such as treatment for pain, bleeding, broken bones or other comfort care. A **CPR Directive** may be canceled at any time by the person who has signed it. All original forms must be canceled.

CPR Directive forms may be obtained from your physician or from licensed health care facilities. This directive must be signed by you, or your agent or proxy *and* your doctor. The *original* copy must be available to appropriate personnel, and you are urged to order and wear a necklace or bracelet that will quickly identify you as someone who does not want to be resuscitated. Order forms for the state approved necklace or bracelet are available at the time you and your doctor sign a **CPR Directive** form. There is a charge for the necklace or bracelet.

SUBSTITUTE DECISION MAKERS (MEDICAL PROXIES)

Under Colorado law, family members and close friends can select a substitute decision maker (proxy) for you if you do not have an advance directive or a guardian, and if a doctor or a judge determines that you are unable to make medical decisions. Your spouse or parent or adult child, grandchild, brother/sister, or a close friend may be chosen as the proxy by mutual agreement.

When a doctor determines a patient is unable to make medical decisions, reasonable efforts must be made to tell you who the proxy is, and the patient has the right to object to the proxy selected and any proxy's decision. If the patient is re-examined later and has regained decision-making capacity, the proxy is relieved of duty.

A proxy can make decisions about all kinds of personal and medical care, and shall comply with your wishes for medical care, if known. (If your wishes are not known, the proxy is to act in your best interest.) The proxy can decide to stop (or not to start) tube feeding only when two doctors agree that tube feeding would only prolong dying and is unlikely to help the patient recover. One of the doctors must be trained in neurology or neurosurgery.

If any of the people entitled to choose your proxy disagree with the choice, or with the proxy's actions, or no proxy can be agreed upon, then that person can ask the court to start a guardianship. Under Colorado's proxy law, no member of the group has "automatic" priority. The person chosen as your proxy should be the one who knows your medical wishes the best.

GUARDIANS

A guardian is a person appointed by a court to assist with the personal affairs of an individual who is unable to make his or her own decisions. The law regards a person as being unable to make personal decisions if he or she lacks sufficient understanding or capacity to make or communicate responsible decisions concerning himself or herself. This may result from mental illness, mental

retardation, physical illness or disability, chronic use of drugs and/or alcohol, or other causes. A person who is subject to a guardianship is called a “ward”.

It is important to recognize that, other than in emergency situations, it may take several months for the appointment of a guardian.

Any person aged 21 or over, or an appropriate agency which is willing to serve, may be appointed as a guardian. A guardian is not required to provide for a ward out of his or her own funds, nor is he or she required to live with the ward. In addition, a guardian is not responsible for a ward’s behavior. Guardianship can be shared by more than one individual.



Generally the duties of a guardian are to determine where the ward should live, to arrange for necessary care, treatment or other services for the ward, and to see that the basic daily personal needs of the ward are met, including food, clothing and shelter. A court order may allow a guardian to make medical care and treatment decisions. A guardian may manage financial matters for the benefit of a ward. A court may appoint a limited guardian to provide particular services for a specific length of time.

MEDICAL DURABLE POWER OF ATTORNEY

A medical durable power of attorney is a document you sign naming someone to make your health care decisions. The person you name is called your agent. Your agent stands in for you when it is time to make any and all medical or other health care decisions with your doctor. Your agent can get copies of your medical records and other information to make medical decisions for you.

There are other types of durable powers of attorney which allow an agent to make different kinds of decisions for you, including financial ones.

A **medical durable power of attorney** can cover more health care decisions than a **living will** does and is not limited to terminal illness. You may put instructions or guidelines into your **medical durable power of attorney** telling your agent what you really want. You can cancel (revoke) your **medical durable power of attorney** at any time.

Your **medical durable power of attorney** can become effective immediately, *or* you can make it become effective when you become unable to make your own medical decisions. A **medical durable power of attorney** form is attached to this pamphlet (Attachment A) and may be used. The **medical durable power of attorney** discussed in this pamphlet is the type which becomes effective only when you become unable to make your own health care decisions. If you want information on the one which can become effective immediately, you may want to talk to a lawyer.

You can appoint *anyone* to be your health care agent as long as that person is at least 18 years old, mentally competent and willing to be your agent. Your agent does not have to live in Colorado, although you may want to choose someone nearby. If you appoint your spouse as your agent, and then later you are divorced, legally separated, or your marriage is annulled, your former spouse is automatically removed as your agent unless expressly stated otherwise in your **medical durable power of attorney**.

It is important to talk with your doctor, your family and your agent about your medical care choices and your advance directives.

MEDICAL DURABLE POWER OF ATTORNEY FOR HEALTH CARE DECISIONS

IMPORTANT INFORMATION ABOUT THE FOLLOWING LEGAL DOCUMENT

Before signing this document, it is very important for you to know and understand these facts:

- This document gives the person you name as your agent the power to make health care decisions if you are unable to do so. (These decisions and powers are not limited to terminal conditions and life support decisions.)
- After you have signed this document, you still have the right to make health care decisions for yourself if you are able to do so.
- You may state in this document any type of treatment that you want to receive or want to avoid. If you want your agent to make decisions about life sustaining treatment, it is best to so state in your **medical durable power of attorney**.
- You have the right to take away the authority of your agent unless you have been determined to be incompetent by a court. If you withdraw (revoke) the authority of your agent, it is recommended that you do so in writing and give copies to all those who received the original document.
- You should not sign this document unless you understand it. You may wish to talk to others or a lawyer.
- The **Medical Durable Power of Attorney** form in this pamphlet may be used; however, it may not meet your individual needs. Other medical durable power of attorney forms are acceptable according to Colorado law. Be sure the form you sign meets your needs.
- The enclosed **Medical Durable Power of Attorney** form complies with Colorado law; however, witness, notary and other requirements vary from state to state. If you should move to another state, be sure to check that state's requirements.

Your **medical durable power of attorney** should contain the following information:

- The name, address and telephone number of the person you choose as your agent and your second choice of agent to act if your first agent is unable to act for you.
- Any instructions about treatment you do or do not wish to receive such as surgery, chemotherapy, or life sustaining treatment such as artificial feeding, kidney dialysis or breathing support, etc.

1. I, _____ Declarant, hereby appoint:
(Print or type your name)

Name of Agent

Agent's Home Telephone Number

Agent's Work Telephone Number

Agent's Home Address

as my agent to make health care decisions for me if and when I am unable to make my own health care decisions. This gives my agent the power to consent, to refuse or stop any health care, treatment, service or diagnostic procedure. My agent also has the authority to talk with health care personnel, get information and sign forms necessary to carry out those decisions.

If the person named as my agent is not available or is unable to act as my agent, then I appoint the following person(s) to serve in the order listed below:

2. _____
Agent Name

3. _____
Agent Name

Home Telephone # Work Telephone #

Home Telephone # Work Telephone #

By this document I intend to create a **Medical Durable Power of Attorney** which shall take effect upon my incapacity to make my own health care decisions and shall continue during that incapacity.

My agent shall make health care decisions as I may direct below or as I make known to him or her in some other way. If I have not expressed a choice about the health care in question, my agent shall base his/her decision on what he/she believes to be in my best interest.

(A) Statement of desires concerning life-prolonging care, treatment, services and procedures:

(B) Special provisions and limitations:

BY SIGNING HERE, I INDICATE THAT I UNDERSTAND THE PURPOSE AND EFFECT OF THIS DOCUMENT.

SIGNATURE OF PERSON CREATING MEDICAL DURABLE POWER OF ATTORNEY (DECLARANT) DATE
(Optional But Recommended)

Colorado law does not require this instrument to be witnessed; however, it is recommended to obtain the signature of two witnesses or a notary. This is not required by Colorado law but may make this document more acceptable in other states.

WITNESS:

Signature: _____

Home Address: _____

Date: _____

WITNESS:

Signature: _____

Home Address: _____

Date: _____

LIVING WILLS

A living will is a document you sign telling your doctor not to use artificial life support measures if you become terminally ill, which means an incurable or irreversible condition for which the administration of life-sustaining procedures will serve only to postpone the moment of death. In Colorado, your **living will** does not go into effect until two doctors agree in writing that you have a terminal condition.

In Colorado, **living wills** may be used to stop tube feeding and other forms of artificial nourishment, *but only if* your **living will** clearly says so. If you are able to take food by mouth, your **living will** won't prevent you from being fed. In any case, artificial nourishment may be used if necessary to provide comfort or relieve pain.



Two witnesses must sign your **living will**. *The following cannot witness or sign a living will:* patients in the facility in which you are receiving care, any doctor or any employee of your doctor, any employee of the facility or agency providing your care, your creditors, or people who may inherit your money or property.

Your doctor, lawyer, health care facility, other health organizations or an office supply store may have **living will** forms for you to complete. Attached to this pamphlet is a form for a **living will** (Attachment B), which is consistent with Colorado law. This form, in addition to other versions meeting Colorado requirements, is acceptable and may be used. Legal assistance is not required to complete a **living will**. If you have legal questions you may want to talk with a lawyer.

You can cancel or change your **living will** at any time. You can do this by destroying it. You may also sign a statement that you no longer want it or you may prepare a new one. *If you cancel or change your living will, you should tell your family, your doctor, and anyone who has a copy of it that it has been canceled or changed.*

DECLARATION AS TO MEDICAL OR SURGICAL TREATMENT

I, _____, being of sound mind and at least eighteen years of age, direct that
(Name of declarant)

my life shall not be artificially prolonged under the circumstances set forth below and hereby declare that:

1. If at any time my attending physician and one other physician certify in writing that:
 - a. I have an injury, disease or illness which is not curable or reversible and which, in their judgment, is a terminal condition; and
 - b. For a period of seven consecutive days or more, I have been unconscious, comatose or otherwise incompetent so as to be unable to make or communicate responsible decisions concerning my person; then I direct that, in accordance with Colorado law, life-sustaining procedures shall be withdrawn and withheld pursuant to the terms of this declaration; it being understood that life-sustaining procedures shall not include any medical procedure or intervention for nourishment considered necessary by the attending physician to provide comfort or alleviate pain. However, I may specifically direct, in accordance with Colorado law, that artificial nourishment be withdrawn or withheld pursuant to the terms of this declaration.
2. In the event that the only procedure I am being provided is artificial nourishment, I direct that one of the following actions be taken:

_____ (initials of declarant) a. Artificial nourishment shall not be continued when it is the only procedure being provided; or

_____ (initials of declarant) b. Artificial nourishment shall be continued for _____ days when it is the only procedure being provided; or

_____ (initials of declarant) c. Artificial nourishment shall be continued when it is the only procedure being provided.
3. I execute this declaration as my free and voluntary act this _____ day of this month _____, in this year of _____.

By _____
(Declarant)

The foregoing instrument was signed and declared by _____ to be his/her declaration, in the presence of us, who, in his/her presence, in the presence of each other, and at his/her request, have signed our names below as witnesses, and we declare that, at the time of the execution of this instrument, the declarant, according to our best knowledge and belief, was of sound mind and under no constraint or undue influence. We further declare that neither of us is: 1) a physician; 2) the declarant's physician or an employee of his/her physician; 3) an employee or a patient of the health care facility in which the declarant is a patient; or 4) a beneficiary or creditor of the estate of the declarant.

Dated at _____, Colorado, this _____ day of _____, in the year _____.

(Signature of witness)

(Signature of witness)

Address: _____

Address: _____

OPTIONAL

STATE OF COLORADO, County of _____

Subscribed and sworn to or affirmed before me by _____ the declarant, and _____, and _____, witnesses, as the voluntary act and deed of the declarant, this _____ day of _____, in the year _____.

My commission expires: _____

Notary Public

IN SUMMARY

- Federal law directs that any time you are admitted to any health care facility, or served by certain organizations that receive Medicare or Medicaid money, you must be told about Colorado's laws concerning your right to make health care decisions.
- Upon admission, you must be given information about advance directives.
- Although you have the right to make an advance directive, you cannot be required to have or make an advance directive in order to be admitted to a health care facility or to receive treatment or care.
- Talk to your doctor about medical conditions which might make advance directives useful.
- Talk with your health care providers about your wishes and beliefs. Make sure that copies of your advance directives are included in your medical records. ***It is your responsibility to provide these copies to your health care providers.***
- You must be given written information about your health care providers' policies and procedures regarding advance directives. Be sure to discuss whether your directives will be honored. If you determine their policies are not consistent with your advance directives, you may wish to transfer to another facility or provider.
- If you do not want your family and close friends to select a substitute decision maker (proxy) to make medical decisions for you, you should have an advance medical directive such as a **medical durable power of attorney** in which you name the person who will make decisions for you.
- You do not need to use a lawyer to complete your **living will, medical durable power of attorney, or CPR Directive**. If you have legal questions, however, you may wish to talk to a lawyer.
- If you have a **living will, medical durable power of attorney or CPR Directive**, give a copy of it to your doctor, your family, your agent if applicable, and to your health care facility. Talk with your doctor, family, and agent, if applicable, while you're still in good health, so they will understand what you want.
- If you have completed a **CPR Directive**, be sure it is readily available at all times
- Ordinarily, it is not advisable to have both a **living will** and a **medical durable power of attorney**, as long as your **medical durable power of attorney** contains any instructions you wish to give about your future medical treatment, including treatment when you are terminally ill.

ADVANCE DIRECTIVES COALITION

The original version of “*Your Right to Make Healthcare Decisions*” was prepared by the Advance Directives Coalition which consisted of various health organizations and agencies and private attorneys.

For help or more information, contact your local physician, hospital, senior group, attorney or any of the organizations below:

Buchanan Neville Stouffer, P.C.
Colorado Association of Homes and Services for the Aging
Colorado Association of Home Health Agencies
Colorado Bar Association
Colorado Department of Public Health and Environment
Colorado Department of Social Services
Colorado Health Care Association
Colorado Health and Hospital Association
Colorado Medical Society
Governor’s Commission on Life and Law
Legal Aid Society
Licensed Health Care Facilities
Rocky Mountain Center for Healthcare Ethics
The Legal Center for Persons With Disabilities

Single copies are available at no cost from:
Colorado Health and Hospital Association, 720-489-1630

To order multiple copies contact:
Hospital Shared Services of Colorado
Stockless Forms Management
1890 West 32nd Avenue, Denver, CO 80211
303-455-1420 FAX 303-455-9104