KANSAS
Advance Directive
Planning for Important Healthcare Decisions

Caring Connections
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CARING CONNECTIONS

Caring Connections, a program of the National Hospice and Palliative Care Organization (NHPCO), is a national consumer engagement initiative to improve care at the end of life.

Caring Connections tracks and monitors all state and federal legislation and significant court cases related to end-of-life care to ensure that our advance directives are up to date.

It’s About How You LIVE

It’s About How You LIVE is a national community engagement campaign encouraging individuals to make informed decisions about end-of-life care and services. The campaign encourages people to:

- Learn about options for end-of-life services and care
- Implement plans to ensure wishes are honored
- Voice decisions to family, friends and healthcare providers
- Engage in personal or community efforts to improve end-of-life care

Visit www.caringinfo.org to learn more about the LIVE campaign, obtain free resources, or join the effort to improve community, state and national end-of-life care.

If you would like to make a contribution to help support our work, please visit www.nationalhospicefoundation.org/donate. Contributions to national hospice programs can also be made through the Combined Health Charities or the Combined Federal Campaign by choosing #11241.

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Using these materials

BEFORE YOU BEGIN
Check to be sure that you have the materials for each state in which you may receive healthcare.

1. These materials include:
   • Instructions for preparing your advance directive.
   • Your state-specific advance directive forms, which are the pages with the gray instruction bar on the left side.

PREPARING TO COMPLETE YOUR ADVANCE DIRECTIVE
2. Read the HIPAA Privacy Rule Summary on page 4.

3. Read all the instructions, on pages 7 through 9, as they will give you specific information about the requirements in your state.

4. Refer to the Glossary located in Appendix A if any of the terms are unclear.

ACTION STEPS
5. You may want to photocopy these forms before you start so you will have a clean copy if you need to start over.

6. When you begin to fill out the forms, refer to the gray instruction bars - they will guide you through the process.

7. Talk with your family, friends, and physicians about your advance directive. Be sure the person you appoint to make decisions on your behalf understands your wishes.

8. Once the form is completed and signed, photocopy the form and give it to the person you have appointed to make decisions on your behalf, your family, friends, healthcare providers and/or faith leaders so that the form is available in the event of an emergency.

If you have questions or need guidance in preparing your advance directive or about what you should do with it after you have completed it, please refer to the state-specific contacts for Legal & End-of-Life Care Resources Pertaining to Healthcare Advance Directives, located in Appendix B.
Summary of the HIPAA Privacy Rule

HIPAA is a federal law that gives you rights over your health information and sets rules and limits on who can look at and receive your health information.

Your Rights

You have the right to:
- Ask to see and get a copy of your health records.
- Have corrections added to your health information.
- Receive a notice that tells you how your health information may be used and shared.
- Decide if you want to give your permission before your health information can be used or shared for certain purposes, such as marketing.
- Get a report on when and why your health information was shared for certain purposes.
- If you believe your rights are being denied or your health information isn't being protected, you can:
  - File a complaint with your provider or health insurer, or
  - File a complaint with the U.S. Government.

You also have the right to ask your provider or health insurer questions about your rights. You also can learn more about your rights, including how to file a complaint from the Web site at www.hhs.gov/ocr/hipaa/ or by calling 1-866-627-7748.

Who Must Follow this Law?

- Doctors, nurses, pharmacies, hospitals, clinics, nursing homes, and many other healthcare providers.
- Health insurance companies, HMOs, most employer group health plans.
- Certain government programs that pay for healthcare, such as Medicare and Medicaid.

What Information is Protected?

- Information your doctors, nurses, and other healthcare providers put in your medical record.
- Conversations your doctor has had about your care or treatment with nurses and other healthcare professionals.
- Information about you in your health insurer's computer system.
- Billing information about you from your clinic/healthcare provider.
- Most other health information about you, held by those who must follow this law.
Summary of the HIPAA Privacy Rule (continued)

Providers and health insurers who are required to follow this law must keep your information private by:

- Teaching the people who work for them how your information may and may not be used and shared,
- Taking appropriate and reasonable steps to keep your health information secure.

To make sure that your information is protected in a way that does not interfere with your healthcare, your information can be used and shared:

- For your treatment and care coordination,
- To pay doctors and hospitals for your healthcare,
- With your family, relatives, friends or others you identify who are involved with your healthcare or your healthcare bills, unless you object,
- To protect the public's health, such as reporting when the flu is in your area, or
- To make required reports to the police, such as reporting gunshot wounds.

Your health information cannot be used or shared without your written permission unless this law allows it. For example, without your authorization, your provider generally cannot:

- Give your information to your employer.
- Use or share your information for marketing or advertising purposes, or
- Share private notes about your mental health counseling sessions.
Introduction to Your Advance Directive

This packet contains the *Advance Directive for Healthcare* which protects your right to refuse medical treatment you do not want or to request treatment you do want in the event you lose the ability to make decisions yourself.

The first part of this document is your state’s *Living Will*. It lets you discuss your wishes about medical care in the event that you develop a terminal condition or are permanently unconscious and can no longer make your own medical decisions. The Living Will becomes effective when your doctor and one other physician document in your medical record that you are in a terminal condition or permanently unconscious.

The second part of this document permits the appointment of a *Healthcare Proxy*. This section lets you name someone to make decisions about your medical care, including decisions about life-sustaining treatment, if you can no longer speak for yourself. It goes into effect when your doctor determines that you are unable to communicate your healthcare decisions.

*Note: This document will be legally binding only if the person completing the document is a competent adult.*
Completing Your Kansas Declaration - Advance Directive for Healthcare

How do I make my *Advance Directive for Healthcare* legal?

The law requires that you sign your document, or direct another to sign it, in the presence of two witnesses who must be at least 18 years of age. These witnesses must also sign the document to show that they personally know you, believe you to be of sound mind, that they did not sign the document on your behalf and that they do not fall into any of the categories of people who cannot be witnesses. The law also requires that your appointed healthcare proxy and alternate healthcare proxy sign and date the document.

*Note: You do not need to notarize your Advance Directive.*

Your witnesses *cannot* be:

- your appointed healthcare proxy,
- related to you by blood, adoption or marriage,
- entitled to any portion of your estate upon your death, either through your will or any codicil to your will or under the laws of interstate succession, or
- someone directly financially responsible for your medical care.

Can I add personal instructions to my *Living Will*?

Yes. You can add personal instructions to your living will. For example, if there are any specific forms of treatment that you wish to refuse that are not already listed in the document, you may list them here.

You may also want to emphasize pain control by adding specific instructions such as, “I want to receive as much pain medication as necessary to ensure my comfort.”

What if I change my mind?

You may revoke your Advance Directive for Healthcare at any time by:

- obliterating, burning, tearing or otherwise destroying or defacing the document,
- executing, or directing another person to execute, a dated written revocation (formal statement that you have changed your mind), or
- orally expressing your intent to revoke the Advance Directive for Healthcare in the presence of a witness, 18 years of age or older, who must sign and date a written confirmation that you made an oral revocation. An oral revocation becomes effective once the signed and dated confirmation is given to your doctor or healthcare provider, who will then make it a part of your medical record.

What other important facts should I know?

The directions of a pregnant patient’s Kansas Advance Directive for Healthcare authorizing the providing, withdrawal or withholding of life-sustaining treatments and artificially provided nutrition and hydration will not be honored due to restrictions in the state law.
Completing Your Kansas Durable Power of Attorney for Healthcare

How do I make my Kansas Durable Power of Attorney for Healthcare legal?

The law requires that you have your Durable Power of Attorney for Healthcare witnessed. You can do this in either of two ways:

1. Have your signature witnessed by a notary public,

OR

2. Sign your document in the presence of two witnesses, at least 18 years of age.

These witnesses cannot be:
- the person you appointed as your healthcare proxy,
- entitled to any portion of your estate,
- directly financially responsible for your healthcare, or
- related to you by blood, marriage or adoption.

Whom should I appoint as my proxy?

Your proxy is the person you appoint to make decisions about your medical care if you become unable to make those decisions yourself. (A proxy may also be called an “agent”). Your proxy can be a family member or a close friend whom you trust to make serious decisions. The person you name as your proxy should clearly understand your wishes and be willing to accept the responsibility of making medical decisions for you.

The person you appoint as your proxy cannot be any of the following individuals, unless he or she is a member of a religious community to which you both are bound by vows, or is related to you by blood, marriage or adoption:

- your doctor or other treating healthcare provider, or
- an employee of your treating healthcare provider, or
- an employee of any hospital, psychiatric hospital or psychiatric treatment facility, hospice, nursing home or similar institution.

You can appoint a second person as your alternate proxy. The alternate will step in if the first person you name as proxy is unable, unwilling or unavailable to act for you.
Instructions for my healthcare proxy.

One of the strongest reasons for naming a proxy is to have someone who can respond flexibly as your medical situation changes and deal with situations that you did not foresee.

Talk with your proxy about your future medical care and describe what you consider to be an acceptable “quality of life.”

What if I change my mind?

You may revoke your Durable Power of Attorney for Healthcare at any time by executing a new Durable Power of Attorney for Healthcare, or by executing a written revocation that must be witnessed in the same way that your Durable Power of Attorney for Healthcare was witnessed.
I, ____________________________,

(name)

designate and appoint: _____________________________

(name of proxy)

__________________________

(address)

__________________________  ____________________________

(home telephone number)  (work telephone number)

or, in the event the person I appoint above is unable, unwilling or unavailable to serve, I appoint:

__________________________

(name of alternate proxy)

__________________________

(address)

__________________________  ____________________________

(home telephone number)  (work telephone number)

to be my proxy for health care decisions and pursuant to the language stated below, on my behalf to:

(1) Consent, refuse consent, or withdraw consent to any care, treatment, service or procedure to maintain, diagnose or treat a physical or mental condition, and to make decisions about organ donation, autopsy and disposition of the body;

(2) make all necessary arrangements at any hospital, psychiatric hospital or psychiatric treatment facility, hospice, nursing home or similar institution; to employ or discharge health care personnel, to include physicians, psychiatrists, psychologists, dentists, nurses, therapists or any other person who is licensed, certified or otherwise authorized or permitted by the laws of this state to administer health care, as the proxy shall deem necessary for my physical, mental and emotional well being; and
(3) request, receive and review any information, verbal or written, regarding my personal affairs or physical or mental health, including medical and hospital records, and to execute any releases of other documents that may be required in order to obtain such information.

In exercising the grant of authority set forth above my proxy for health care decisions shall: (Here may be inserted any special instructions or statement of the principal’s desires to be followed by the proxy in exercising the authority granted)

LIMITATIONS OF AUTHORITY

(1) The powers of the proxy herein shall be limited to the extent set out in writing in this durable power of attorney for health care decisions, and shall not include the power to revoke or invalidate any previously existing declaration made in accordance with the natural death act.
(2) The proxy shall be prohibited from authorizing consent for the following items:
(3) This durable power of attorney for health care decisions shall be subject to the additional following limitations:

**EFFECTIVE TIME**
This power of attorney for health care decisions shall become effective upon my disability or incapacity.

**REVOCATION**
Any durable power of attorney for health care decisions I have previously made is hereby revoked.

**EXECUTION**
Executed this ______________, at __________________, Kansas.
(date)                                         (county)

_______________________________________________
                                        (principal)
This document must be: (1) Witnessed by two individuals of lawful age who are not the proxy, not related to the principal by blood, marriage or adoption, not entitled to any portion of the principal’s estate and not financially responsible for the principal’s health care; OR (2) acknowledged by a notary public.

Witness ______________________________________________________
Address ______________________________________________________

Witness ______________________________________________________
Address ______________________________________________________

OR

STATE OF KANSAS  )
COUNTY OF    ) SS.

This instrument was acknowledged before me on
__________________________
(date)

by ____________________________.
(name of principal)

__________________________
(signature of notary public)

(Seal, if any)

My appointment expires: ___________________
Declaration made this __________ day of ______________ _____________
(day)                          (month)             (year)

I, _____________________________________________________________,
(name)

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 two physicians who have personally examined me,
one of whom shall be my attending physician, and the physicians have
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(s) as the final expression of my legal right to
refuse medical or surgical treatment and accept the consequences from such
refusal.
ORGAN DONATION (OPTIONAL)
Under Kansas law, you may make a gift of all or part of your body to a bank or storage facility or a hospital, physician or medical or dental school for transplantation, therapy, medical or dental evaluation or research or for the advancement of medical or dental science. You may also authorize your agent to do so or a member of your family may make a gift unless you give them notice orally or in writing that you do not want a gift made.

You may revoke or amend an anatomical gift by: (1) the execution of a signed statement; (2) an oral statement that is made in the presence of two persons, at least one of whom is a disinterested witness, and communicated to your family or attorney or to the donee; (3) a statement during a terminal illness or injury addressed to an attending physician; (4) a signed card or document found on you or in your personal effects; or (5) by destruction, cancellation, or mutilation of the document providing for the anatomical gift and all executed copies thereof.

In the space below you may make a gift yourself or state that you do not want to make a gift. If you do not complete this section, your agent will have the authority to make a gift of all or a part of your body pursuant to law. The donation elections you make below survive your death.

Initial the line next to the statement below that best reflects your wishes. You do not have to initial any of the statements. If you do not initial any of the statements, your agent and your family will have the authority to make a gift of all or part of your body under Kansas law.

_____ I do not want to make an organ or tissue donation and I do not want my agent or family to do so.
_____ I have already signed a written agreement or donor card regarding organ and tissue donation with the following individual or institution:

Name of individual/organization:_____________________________________

_____ Pursuant to Kansas law, I hereby give, effective on my death:

 _____ Any needed organ or parts.
 _____ The following part or organs listed below:

For (initial one):

 _____ Any legally authorized purpose.
 _____ Transplant or therapeutic purposes only.
Other directions:

I understand the full importance of this declaration and I am emotionally and mentally competent to make this declaration.

Signed __________________________________________________________

City, County and State of Residence _______________________________________

The declarant has been personally known to me and I believe him or her to be of sound mind. I did not sign the declarant's signature above for or at the direction of the declarant. I am not related to the declarant by blood or marriage, entitled to any portion of the estate of the declarant according to the laws of interstate succession or under any will of declarant or codicil thereto, or directly financially responsible for the declarant's medical care.

Witness ___________________________________________________________

Witness ___________________________________________________________

OR

STATE OF KANSAS )
COUNTY OF ) SS.

This instrument was acknowledged before me on ______________________
(date)

by __________________________________________________________.
(name of principal)

______________________________________________________________
(signature of notary public)

(Seal, if any)

My appointment expires: ________________

Courtesy of Caring Connections
1731 King St., Suite 100, Alexandria, VA  22314
www.caringinfo.org, 800/658-8898
You Have Filled Out Your Advance Directive, Now What?

1. Your Kansas Advance Directive for Healthcare decisions is an important legal document. Keep the original signed document in a secure but accessible place. Do not put the original document in a safe deposit box or any other security box that would keep others from having access to it.

2. Give photocopies of the signed original to your proxy and alternate proxy, doctor(s), family, close friends, clergy and anyone else who might become involved in your healthcare. If you enter a nursing home or hospital, have photocopies of your document placed in your medical records.

3. Be sure to talk to your proxy(s), doctor(s), clergy, family and friends about your wishes concerning medical treatment. Discuss your wishes with them often, particularly if your medical condition changes.

4. If you want to make changes to your documents after they have been signed and witnessed, you must complete a new document.

5. Remember, you can always revoke your document.

6. Be aware that your document will not be effective in the event of a medical emergency. Ambulance personnel are required to provide cardiopulmonary resuscitation (CPR) unless they are given a separate order that states otherwise. These orders, commonly called “non-hospital do-not-resuscitate orders,” are designed for people whose poor health gives them little chance of benefiting from CPR. These orders must be signed by your physician and instruct ambulance personnel not to attempt CPR if your heart or breathing should stop.

Currently not all states have laws authorizing non-hospital do-not-resuscitate orders. We suggest you speak to your physician for more information. Caring Connections does not distribute these forms.
Appendix A

Glossary

**Advance directive** - A general term that describes two kinds of legal documents, living wills and medical powers of attorney. These documents allow a person to give instructions about future medical care should he or she be unable to participate in medical decisions due to serious illness or incapacity. Each state regulates the use of advance directives differently.

**Artificial nutrition and hydration** - Artificial nutrition and hydration supplements or replaces ordinary eating and drinking by giving a chemically balanced mix of nutrients and fluids through a tube placed directly into the stomach, the upper intestine or a vein.

**Brain death** - The irreversible loss of all brain function. Most states legally define death to include brain death.

**Capacity** - In relation to end-of-life decision-making, a patient has medical decision making capacity if he or she has the ability to understand the medical problem and the risks and benefits of the available treatment options. The patient's ability to understand other unrelated concepts is not relevant. The term is frequently used interchangeably with competency but is not the same. Competency is a legal status imposed by the court.

**Cardiopulmonary resuscitation** - Cardiopulmonary resuscitation (CPR) is a group of treatments used when someone's heart and/or breathing stops. CPR is used in an attempt to restart the heart and breathing. It may consist only of mouth-to-mouth breathing or it can include pressing on the chest to mimic the heart's function and cause blood to circulate. Electric shock and drugs also are used frequently to stimulate the heart.

**Do-Not-Resuscitate (DNR) order** - A DNR order is a physician’s written order instructing healthcare providers not to attempt cardiopulmonary resuscitation (CPR) in case of cardiac or respiratory arrest. A person with a valid DNR order will not be given CPR under these circumstances. Although the DNR order is written at the request of a person or his or her family, it must be signed by a physician to be valid. A non-hospital DNR order is written for individuals who are at home and do not want to receive CPR.

**Emergency Medical Services (EMS)** - A group of governmental and private agencies that provide emergency care, usually to persons outside of healthcare facilities; EMS personnel generally include paramedics, first responders and other ambulance crew.

**Healthcare agent** - The person named in an advance directive or as permitted under state law to make healthcare decisions on behalf of a person who is no longer able to make medical decisions.
**Hospice** - Considered to be the model for quality, compassionate care for people facing a life-limiting illness or injury, hospice and palliative care involve a team-oriented approach to expert medical care, pain management, and emotional and spiritual support expressly tailored to the person's needs and wishes. Support is provided to the persons loved ones as well.

**Intubation** - Refers to "endotracheal intubation" the insertion of a tube through the mouth or nose into the trachea (windpipe) to create and maintain an open airway to assist breathing.

**Life-sustaining treatment** - Treatments (medical procedures) that replace or support an essential bodily function (may also be called life support treatments). Life-sustaining treatments include cardiopulmonary resuscitation, mechanical ventilation, artificial nutrition and hydration, dialysis, and other treatments.

**Living will** - A type of advance directive in which an individual documents his or her wishes about medical treatment should he or she be at the end of life and unable to communicate. It may also be called a “directive to physicians”, “healthcare declaration,” or “medical directive.”

**Mechanical ventilation** - Mechanical ventilation is used to support or replace the function of the lungs. A machine called a ventilator (or respirator) forces air into the lungs. The ventilator is attached to a tube inserted in the nose or mouth and down into the windpipe (or trachea).

**Medical power of attorney** - A document that allows an individual to appoint someone else to make decisions about his or her medical care if he or she is unable to communicate. This type of advance directive may also be called a healthcare proxy, durable power of attorney for healthcare or appointment of a healthcare agent. The person appointed may be called a healthcare agent, surrogate, attorney-in-fact or proxy.

**Palliative care** - A comprehensive approach to treating serious illness that focuses on the physical, psychological, spiritual, and existential needs of the patient. Its goal is to achieve the best quality of life available to the patient by relieving suffering, and controlling pain and symptoms.

**Power of attorney** - A legal document allowing one person to act in a legal matter on another's behalf regarding to financial or real estate transactions.

**Respiratory arrest** - The cessation of breathing - an event in which an individual stops breathing. If breathing is not restored, an individual's heart eventually will stop beating, resulting in cardiac arrest.
**Surrogate decision-making** - Surrogate decision-making laws allow an individual or group of individuals (usually family members) to make decisions about medical treatments for a patient who has lost decision-making capacity and did not prepare an advance directive. A majority of states have passed statutes that permit surrogate decision making for patients without advance directives.

**Ventilator** - A ventilator, also known as a respirator, is a machine that pushes air into the lungs through a tube placed in the trachea (breathing tube). Ventilators are used when a person cannot breathe on his or her own or cannot breathe effectively enough to provide adequate oxygen to the cells of the body or rid the body of carbon dioxide.

**Withholding or withdrawing treatment** - Forgoing life-sustaining measures or discontinuing them after they have been used for a certain period of time.
Appendix B

Legal & End-of-Life Care Resources Pertaining to Healthcare Advance Directives

LEGAL SERVICES
The Kansas Department on Aging provides a listing of Area Agencies on Aging (AAA), each of whom contracts with legal providers for individuals over 60 in Kansas.

Persons over the age of 60 can get legal information and advice about most issues, including:
- Power of Attorney
- Medicaid and Medicare
- Civil issues
- Living Wills/Trusts and more

- Must be over 60
- Free for individuals with low to moderate incomes

To locate AAA in your area:
Call toll free: 1-800-432-3535 or 1-785-296-4986

OR

Visit their website for information on locations and numbers:
http://www.agingkansas.org/

END-OF-LIFE SERVICES
The Kansas Department on Aging uses public and private resources to improve the security, dignity and independence of Kansas’s seniors, their families, seniors’ caregivers and all Kansans living in adult care homes. They provide a listing of Area Agencies on Aging (AAA), each of whom can put individuals over 60 in contact with services available in their region.

The AAA offers service and resources include, but are not limited to:
- Home Healthcare
- Home delivered meals
- Adult Day Care
- Legal Assistance
- Senior Programs
- Transportation and other services

- Age requirement 60 and older
- AAA offers services free for low income individuals

For more information call toll free: 1-800-432-3535 or 785-296-4986

OR

Visit there website: http://www.agingkansas.org/