

# 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 hospital, 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 the treatment, and alternate procedures available.

This information helps you make an informed and rational decision about accepting or declining a proposed course of 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."

## ◆ DIRECTIVES 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 a "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 Directive.** You may make an oral Directive if you are diagnosed with a terminal condition and are unable to sign a written directive.
- **Directive 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 health care provider, including a physician of your 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); 4) an employee of your residential care provider unless he/she 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 judgement, 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 consultation 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 interest.

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 instructions 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 legally valid expression of your desires.

Neither this hospital 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 in this or any other hospital.

## ◆ HOSPITAL 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. This hospital 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.

## ◆ RELEASE OF INFORMATION

Information about your health care is confidential and Medina Regional Hospital recognizes the importance of protecting your privacy and has developed numerous mechanisms to maintain confidentiality. Except as specifically authorized by state law, you have the right to determine the information which the hospital may release about you. Unless you request otherwise, your name is added to the hospital's patient roster upon admission. This allows you to receive telephone calls, flowers, mail, and visitors. Your religious preference may be provided to ministers of the faith you designate. Unless you request otherwise, the hospital may release directory information, which confirms your presence in the hospital; the nature of your injury, if applicable; your city of residence, sex, and age; and a condition report, in terms such as "critical," "poor," "fair," or "good."

You have the right to request that no information be released except that authorized by law. If you choose to be a "no information" patient, your presence will not be acknowledged, and you will not receive telephone calls, flowers, etc.

## ◆ RELEASE OF INFORMATION (continued)

If the patient is a minor, the parent or legal guardian has the authority to make these decisions.

Information regarding your medical history, diagnosis, treatment and prognosis is maintained in your medical record, which is confidential. You have the right to request a copy of this information, and within 15 days of receipt of the request and payment of any fees, the hospital must provide it or explain that the information does not exist or cannot be found. The hospital may charge a fee for the retrieval and copying of the record; the fee schedule is established by law. The hospital may not charge a patient to examine his own health care information.

With certain exceptions specified by law, you have the right to designate to whom your confidential medical record may be released. Your authorization is valid for 180 days, unless it provides otherwise. Among those the law allows the hospital to disclose confidential health care information to without your authorization are health care providers who are caring for you; governmental agencies as authorized or required by law; third parties to obtain payment; a member of the clergy designated by you; a transporting medical services provider to enable it to establish diagnosis and outcome; prospective health care providers for securing services after your discharge; a poison control center; and an organ/tissue procurement organization for potential inquiries related to donation. The law also provides for hospital to disclose information under a court order or court subpoena.

Texas law recognizes the following individuals as having authority to permit disclosure of your health care information:

- A legal guardian of a patient who has been judged incapacitated by a court to manage his/her personal affairs;
- An agent of the patient under a Durable Power of Attorney for health care;
- An attorney or guardian *ad litem* appointed by a court for the patient;
- A personal representative or statutory beneficiary of a deceased patient;
- An attorney retained by the patient or the patient's legally authorized representative; or;
- An attorney-in-fact of the patient.

The legally authorized representative must show written evidence of his/her legal status to the hospital prior to signing permission of any disclosure.

If you have any questions regarding release of information, please contact the nursing supervisor.

## ◆ DECLARATION FOR MENTAL HEALTH TREATMENT

Another type of advance directive is entitled "Declaration for Mental Health Treatment." This document allows you to tell the hospital providing mental health services what kinds of mental health treatment you want, in the event you become incapacitated.

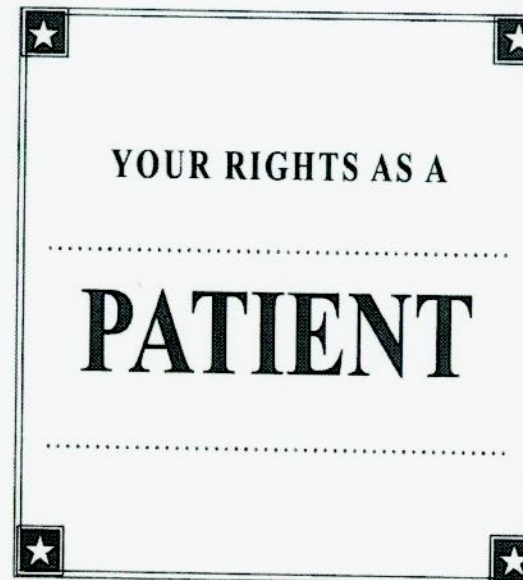
To use this type of advance directive, you must sign a declaration for mental health treatment form indicating the kinds of mental health services you do or do not consent to (including such as restraint, seclusion or medication). For the mental health directive to become effective, a judge must find that you lack the ability to understand the nature and consequences of a proposed treatment, including the benefits, risks, and alternatives to the proposed treatment, as well as the ability to make health care treatment decisions because of impairment and that you are incapacitated.

The law defines "incapacitated," and the court determines "incapacitation" in one of only two ways: in a guardianship proceeding, or in a hearing to consider the forced administration of psychoactive medication.

A hospital may not discriminate against you because you have or have not signed a mental health advance directive.

This facility does not routinely provide mental health services. However, in accordance with the federal law, it is the policy of this facility to provide written information to all adult inpatients on admission regarding their right to formulate a declaration for mental health treatment, and the written policies and procedures of this facility respecting the implementation of such rights. People who present to this facility who need inpatient mental health services will be screened to determine whether an emergency medical condition exists, will be provided appropriate stabilizing treatment, and then transferred as appropriate to a facility that provides inpatient mental health services.

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