

COLORADO

Advance Directive

Planning for Important Healthcare Decisions

Caring Connections

1700 Diagonal Road, Suite 625, Alexandria, VA 22314

www.caringinfo.org

800/658-8898

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, supported by a grant from The Robert Wood Johnson Foundation.

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

Please call the HelpLine at 800/658-8898 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.

**Support for this program is provided by a grant from
The Robert Wood Johnson Foundation, Princeton,
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Your Advance Care Planning Packet

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Using these materials

BEFORE YOU BEGIN

1. Check to be sure that you have the materials for each state in which you may receive healthcare.
2. 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

3. Read the HIPAA Privacy Rule Summary on page 4.
4. Read all the instructions, on pages 7 through 9, as they will give you specific information about the requirements in your state.
5. Refer to the Glossary located in Appendix A if any of the terms are unclear.

ACTION STEPS

6. You may want to photocopy these forms before you start so you will have a clean copy if you need to start over.
7. When you begin to fill out the forms, refer to the gray instruction bars - they will guide you through the process.
8. 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.
9. 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 others 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 Colorado Advance Healthcare Directive

This packet contains three legal documents that protect 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:

1. The **Colorado Medical Durable Power of Attorney for Healthcare** lets you name someone to make decisions about your medical care including decisions about life support if you can no longer speak for yourself. The Medical Durable Power of Attorney for Healthcare is especially useful because it appoints someone to speak for you any time you are unable to make your own medical decisions, not only at the end of life.

2. The **Colorado Declaration as to Medical or Surgical Treatment** is your state's living will. It lets you state your wishes about medical care in the event that you develop a terminal condition and are either unconscious or otherwise incompetent to make your own medical decisions. Your attending physician and one other physician must certify that you have a terminal condition. Once you are certified as having a terminal condition, your physician must immediately make a reasonable effort to notify your spouse, any adult children, a parent, or attorney-in-fact under a Medical Durable Power of Attorney of such certification (to the extent the physician knows the whereabouts of any such persons). The Declaration becomes effective, and your physician must comply with your Declaration, if no one challenges the validity of the Declaration within 48 hours after the certification is made by the physicians.

3. Organ Donation form

Note: These documents will be legally binding only if the person completing them is a competent adult (at least 18 years old).

Completing Your Colorado Medical Durable Power of Attorney for Healthcare

Whom should I appoint as my agent?

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

You can appoint a second and third person as your alternate agent. The alternate may act on your behalf if the first person you name as agent is unable, unwilling or unavailable to act for you.

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

Colorado law does not specify witnessing requirements for your Medical Durable Power of Attorney. However, to ensure that your document is honored, we recommend that you have it witnessed in the same manner as your Colorado Declaration by signing it in the presence of two witnesses, 18 years of age or older. The witnesses should sign to show that they personally know you and believe you to be of sound mind and free of duress, fraud or undue influence, that you signed or acknowledged the signature of the Medical Durable Power of Attorney in their presence, and that they are neither your agent, your healthcare provider or an employee of your healthcare provider.

These witnesses **cannot** be:

- a person who has a claim against your estate upon your death, a person who knows or believes that he is entitled to any portion of your estate upon your death either as a beneficiary of a will in existence at the time the document is signed or as an heir at law,
- your attending physician or any other physician,
- an employee of your attending physician or treating healthcare facility, or
- a patient in your treating healthcare facility.

If you are physically unable to sign your Medical Durable Power of Attorney for Healthcare, you may direct someone to sign it in your presence. This person must meet the same requirements as your witnesses.

Should I add personal instructions to my Colorado Medical Durable Power of Attorney for Healthcare?

If you add instructions to this document, you might unintentionally restrict your agent’s power to act in your best interest. Talk with your agent about your future medical care and describe what you consider to be an acceptable “quality of life.”

Completing Your Colorado Medical Durable Power of Attorney for Healthcare (continued)

If you want to record your wishes about specific treatments or conditions, you should use your Colorado Declaration (the living will).

What if I change my mind?

Colorado law does not specify procedures for revoking the Medical Durable Power of Attorney. If in the future you want to revoke this document, we advise that you follow the revocation procedures for the Colorado Declaration. You may revoke your Medical Durable Power of Attorney for Healthcare orally, in writing, or by burning, tearing, canceling, obliterating, or destroying the document. Your doctor must be notified of your revocation for it to be effective.

Completing Your Colorado Declaration as to Medical or Surgical Treatment

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

How do I make my Colorado Declaration legal?

In order to make your Declaration legally binding, you must sign your document in the presence of two witnesses, 18 years of age or older, who must also sign to show that they believe you to be of sound mind and under no constraint or undue influence.

These witnesses **cannot** be:

- a person who has a claim against your estate upon your death,
- a person who knows or believes that he is entitled to any portion of your estate upon your death either as a beneficiary of a will in existence at the time the Declaration is signed or as an heir at law,
- your attending physician or any other physician,
- an employee of your attending physician or treating healthcare facility, or
- a patient in your treating healthcare facility.

If you are physically unable to sign your Declaration, you may direct someone to sign it in your presence. This person must meet the same requirements as your witnesses.

Can I add personal instructions to my Declaration?

Yes. You can add personal instructions in the part of the document called "Other directions."

If you have appointed an agent, it is a good idea to write a statement such as, "Any questions about how to interpret or when to apply my Declaration are to be decided by my agent."

What if I change my mind?

You may revoke your Declaration orally, in writing, or by burning, tearing, canceling, obliterating, or destroying the document. Your doctor must be notified of your revocation for it to be effective.

What other important facts should I know?

A pregnant patient's Declaration will not be honored if her attending physician determines that the fetus is viable and could, with a reasonable degree of medical standard.

**COLORADO MEDICAL DURABLE POWER OF ATTORNEY FOR
HEALTH CARE - PAGE 2 OF 3**

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 decisions 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:

ADD PERSONAL
INSTRUCTIONS
(IF ANY)

STATE ANY SPECIAL
PROVISIONS OR
LIMITATIONS
(IF ANY)

YOU AND YOUR
WITNESSES MUST
SIGN THE
DOCUMENT ON THE
NEXT PAGE

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**COLORADO MEDICAL DURABLE POWER OF ATTORNEY FOR
HEALTH CARE - PAGE 3 OF 3**

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

SIGN AND DATE
THE DOCUMENT
AND PRINT YOUR
ADDRESS

I sign my name to this form on: _____ at:
(date)

(address)

(signature of person creating Medical Durable Power of Attorney)

WITNESSES

WITNESSING
PROCEDURE

YOUR WITNESSES
MUST SIGN AND
PRINT THEIR
NAMES AND
ADDRESSES

I declare that the person who signed or acknowledged this document is personally known to me, that he/she signed or acknowledged this Medical Durable Power of Attorney in my presence, and that he/she appears to be of sound mind and under no duress, fraud or undue influence. I am not the person appointed as the agent by this document, nor am I the patient's health care provider, or an employee of the patient's health care provider.

WITNESS #1

First Witness' Signature _____

Home Address _____

Print Name and Date _____

WITNESS #2

Second Witness' Signature _____

Home Address _____

Print Name and Date _____

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Courtesy of Caring Connections
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INSTRUCTIONS

PRINT YOUR NAME

INITIAL THE
OPTION THAT
REFLECTS YOUR
WISHES

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**COLORADO DECLARATION AS TO MEDICAL OR SURGICAL
TREATMENT – PAGE 1 OF 2**

I, _____,
(name)

being of sound mind and at least eighteen years of age, direct that 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 qualified 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: (initial the option that applies)

_____ a. Artificial nourishment shall not be continued when it is the only procedure being provided; or

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

_____ c. Artificial nourishment shall be continued when it is the only procedure being provided.

**COLORADO DECLARATION AS TO MEDICAL OR SURGICAL
TREATMENT - PAGE 2 OF 2**

ADD PERSONAL
INSTRUCTIONS
(IF ANY)

3. Other directions:

DATE AND SIGN
THE DOCUMENT

4. I execute this declaration, as my free and voluntary act, this

_____ day of _____, _____.
(day) (month) (year)

By _____
(signature of declarant)

WITNESSING
PROCEDURE

The foregoing instrument was signed and declared by _____

PRINT YOUR NAME

_____ to be his or her declaration, in the
(name of declarant)

presence of us, who, in his or her presence, in the presence of each other, and at his or 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.

WITNESSES MUST
SIGN AND PRINT
THEIR ADDRESSES
BELOW

Dated at _____, Colorado, this _____ day of _____, _____
(city) (day) (month) (year)

WITNESS #1

Name _____

Address _____

WITNESS #2

Name _____

Address _____

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ORGAN DONATION (OPTIONAL)

Under Colorado law, any individual 18 or older by signing a written document, may donate all or any part of his body, the gift to take effect upon death.

The donor may amend or revoke at gift by: (1) Writing signed by the donor; or (2) Any other writing used to identify the individual as refusing to make an anatomical gift. If the person designates on their driver's license that they wish to be an organ donor, such designation is no longer valid if the driver's license is revoked or suspended. During a terminal illness or injury, the refusal may be an oral statement or other form of communication.

Initial the line next to the statement below that best reflects your wishes. If you do not complete this section, your agent will have the authority to make a gift of a part of your body pursuant to law unless you give them notice that you do not want a gift made. The donation elections you make below survive your death.

I hereby make an anatomical gift, to be effective upon my death, of:

(initial one)

A. Any needed tissues

B. The following tissues:

Skin

Cornea

Bone, related tissues, and tendons

Donor Signature: _____

CHECK THE OPTION THAT REFLECTS YOUR WISHES

SIGN THE DOCUMENT

You Have Filled Out Your Advance Directive, Now What?

1. Your *Colorado Medical Durable Power of Attorney for Healthcare and Colorado Declaration as to Medical or Surgical Treatment* are important legal documents. 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 agent and alternates, 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 agent and alternate(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 Colorado document.
6. Be aware that your Colorado 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 directive that states otherwise. These directives called "(CPR) directives" are designed for people whose poor health gives them little chance of benefiting from CPR. These directives must be signed by you (or if you are not capable of providing informed consent, a person who is authorized under state law to make medical decisions on your behalf) and your physician, and instruct emergency medical service personnel, healthcare providers and healthcare facilities not to attempt CPR if your heart or breathing should stop. The directive must be in the form, and include the information, required by the Colorado Board of Health.

Currently not all states have laws authorizing non-hospital CPR Directives. 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

Individuals needing help with the advance directive forms should get in touch with their Area Agency on Aging (AAA) and ask for legal assistance. They will put them in contact with legal services in their region.

Anyone over the age of 60 can get legal information and advice about most issues, including, but not limited to:

- Living Wills and Trusts
- Power of Attorney
- Civil matters and much more

- Must be 60 and older
- Free to individuals 60 and older with low to moderate incomes, however, they do encourage you to make a donation

For more information call the Administration on Aging in Denver Colorado:
1-303-844-2951

OR

Visit the Department of Human Service Aging and Adult Service website for a list of AAA:

<http://www.cdhs.state.co.us/aas/PDFs/AAAs.pdf>

END-OF-LIFE SERVICES

Colorado Department of Human Service (CDHS) website has information on services and programs available for adults 18 and older with low to moderate income. Individuals can receive resources and services including, but not limited to:

- Medicare and Medicaid
- Housing
- Seniors services and programs
- Employment
- Energy assistance programs
- Legal referrals and much more

- Must be 18 and older
- Free services and programs available for individuals with low to moderate incomes

Visit the website for more information about the services and programs:

<http://www.cdhs.state.co.us/>

For more information call CDHS: 303-866.5700