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MAKING SURE YOUR HEALTH CARE, FUNERAL, AND BURIAL, AND ORGAN DONATION WISHES ARE FOLLOWED

I. HEALTH CARE WISHES

Advances in medical technology have not only increased our life expectancies, but also make it possible for us to survive diseases that we might not have survived twenty years ago. This raises an important question for each of us – what quality of life do we want in the final stages of our lives?

The purpose of this memorandum is to help you ensure that your wishes are followed if you are unable to speak for yourself. Please be aware that this memorandum can only provide *general* information. If you have any questions, please call us.

The first step in making sure your health care wishes are followed is to consider the following documents:

1. A **Medical Durable Power of Attorney or an Advance Medical Directive** is a written document in which you appoint an “agent” to make health care decisions for you if you are not able to speak for yourself. The Medical Durable Power of Attorney usually grants your agent broad authority to act for you in any health care matter. The Advance Medical Directive grants the same broad authority, but also usually includes specific instructions about pain, mental incapacity, mobility and other health issues. You, of course, may also limit your agent’s authority as you deem appropriate. This power of attorney or directive remains in effect even if you are incapacitated.
2. A **Declaration as to Medical or Surgical Treatment**, commonly called a “Living Will,” is a document in which you “speak” for yourself if certain limited medical conditions are present. A Living Will applies only if your attending physician and one other physician certify in writing that you have a terminal condition and are unconscious, comatose or mentally incompetent. If those circumstances are present, “life-sustaining procedures” (the life support equipment) will be discontinued. In addition, your Living Will can specify whether you want artificial nourishment: (a) discontinued; (b) continued for a specific additional period of time; or (c) continued indefinitely.
3. A **CPR (Cardiopulmonary Resuscitation) Directive** is a written document in which you state that CPR should not be attempted. Unlike the Living Will, there is no requirement that you have a terminal diagnosis. However, only your doctor can give you this document and your doctor needs to sign it. If you have a CPR directive, we strongly recommend that you obtain a CPR Directive “bracelet” which you wear at all times. You should be aware that even though CPR will not be performed if you have the CPR Directive, you will receive “comfort measures” from health care personnel.

Before appointing an agent to act for you under a Medical Durable Power of Attorney or Advance Medical Directive, you should talk with the agent to make sure that he or she is willing to serve as your agent. Serving as an agent under a Medical Durable Power of Attorney or Advance Medical Directive can be emotionally demanding and time consuming. Therefore, you should select someone whom you trust to carry out your wishes.

The next step to make sure your wishes will be carried out is to have open and honest discussions with your agent about your wishes in the event of your incapacity or during the final stages of your life. If you sign an Advance Medical Directive, you will usually include specific directions about pain, mental incapacity, mobility and other matters. You also may want to consider writing a “Personal Statement” to your agent about what quality of life issues are important to you. Here is an example of a “Personal Statement,” which you might find helpful in thinking about your own Personal Statement.

If I am ever not able to make my own health care decisions, I ask that my agent acting under my Medical Durable Power of Attorney use the following guideline to help make health care decisions for me.

My quality of life is based upon being able to rationally converse with and recognize my friends and family members. I believe that death is a natural process which should not be prolonged. If, after consulting with my doctors, my agent is satisfied that I have a terminal illness, permanent brain damage or Alzheimers (or similar disease), then I want the following medical procedures/treatments withheld: cardio-pulmonary resuscitation, major surgery, minor surgery/invasive diagnostic testing, kidney dialysis, chemotherapy, blood or blood products, mechanical breathing, antibiotics, simple diagnostic tests (including blood tests and x-rays), artificial nutrition and hydration, and any other heroic measures. I do, however, want medication for pain relief continued.

If possible, I would like my agent to arrange for me to remain at my home during the final stages of my life. I would also like to be prayed for, talked to, and visited by friends, family members and clergy members as often as their schedules permit (even if I am unconscious).

Finally, give copies of any of the above documents you have signed to your agent and your doctor. If you move to an assisted-living center, nursing home or hospice facility, or are admitted to a hospital, be sure to also give your health care personnel copies of any of the above documents you have signed.

II. FUNERAL AND BURIAL

In 2003, the Colorado legislature adopted the “Disposition of Last Remains Act.” This Act authorizes persons age 18 and older to give written instructions about their funeral and burial. Generally, we do not recommend that you put your funeral and burial wishes in your Will because the original Will may not be located until after the funeral. We do, however, recommend that you prepare separate written instructions to your personal representatives and family regarding your funeral and burial wishes. Copies of your instructions should be given to your personal representatives and family members who would be involved in making funeral and burial arrangements. The instructions can also be included in a prepaid funeral or burial plan. If you have a pre-paid funeral, burial or cremation plan, please let your personal representative know where you keep your copies of these contracts.

Under Colorado’s law, the instructions must be in writing, signed and dated so that the personal representative or family members can easily determine which is the last set of written instructions. It does not need to be notarized, but an optional notary statement is contained in the statutory form. The instructions should indicate whether you wish to be buried, cremated, entombed or some other disposition. You should also indicate where the burial or entombment should take place, or how the ashes should be disposed of. You can also include directions about the funeral or memorial service. A funeral director is protected from liability if the written instructions are followed. Under prior

Colorado law, the next of kin could override any prepaid funeral plan or directions the decedent might have left. An example of a form for written burial instructions is attached to this memorandum.

If you do not leave written instructions for disposition of last remains, then the following persons have priority, in the order listed, to control the disposition of your last remains and ceremonial arrangements:

1. An appointed personal representative or nominee for personal representative in the Will;
1. Surviving spouse;
2. Majority of surviving adult children;
3. Surviving parents or legal guardians;
4. Majority of surviving adult siblings; and
5. The Public Administrator.

III. ORGAN DONATION

If you choose to donate your organs, you have several considerations. First, you may donate all your organs and tissues, or you may specify which organs or tissues you want to donate. The language you will see on the back of each newly issued driver's license is as follows:

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

- A. Any needed organs/tissues
- B. The following organs/tissues:

Donor signature

When you apply for a new driver's license you will be asked to decide if you want to be an organ donor. If you want to become an organ donor at that time, a "Y" will be placed on the front of your driver's license in the organ donor field. If you do not have a "Y" on the front of your driver's license and want to become an organ donor, you should complete the "Anatomical Gift" section on the back of your driver's license.

Alternatively, you may also state whether you want to be a donor in your Medical Durable Power of Attorney, Advance Medical Directive, Living Will or CPR Directive. Under your Medical Durable Power of Attorney, you may delegate authority to make organ or tissue donations to your agent. If you delegate authority to your agent to make organ or tissue donations, be sure to discuss with your agent which organs or tissues you want donated.



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