

# Directive to Physicians for Texans: Information and Answers

[Legal Hotline for Texans - Texas Legal Services Center \(https://texaslawhelp.org/directory/legal-resource/legal-hotline-texans-texas-legal-services-center\)](https://texaslawhelp.org/directory/legal-resource/legal-hotline-texans-texas-legal-services-center) [1]



## What is a Directive to Physicians?

A Directive to Physicians is a legal form, also known as a “Living Will.” It communicates your wishes about medical treatment at some time in the future, but only if your condition is irreversible or terminal. It speaks for you when you cannot speak for yourself.

## The Directive to Physicians...

- Is free
- Does not affect your will, estate, or finances
- Does not affect your health or life insurance premiums
- Covers only your end-of-life treatment options
- Takes effect only when a doctor says you will not recover
- Does not prevent you from receiving medical treatment
- Does not prevent treatment and medication to make you more comfortable
- Does not authorize mercy killing or assisted suicide
- Allows you to die by natural process
- Does not require a lawyer or notary to complete
- Can be canceled (revoked) at any time, regardless of your mental state
- Can be made for your minor child or ward
- Is not effective if you are pregnant
- Is valid in other states

## Why do I need a Directive to Physicians?

You have the right to make decisions about your medical treatment. But if your condition is terminal or irreversible, you may not be able to communicate your wishes.

A Directive to Physicians lets your doctor and loved ones know whether you choose to remain on artificial life support. It provides peace of mind about your end-of-life treatment options.

## What's the difference between a Directive to Physicians and a Medical Power of Attorney?

A Directive to Physicians tells doctors and other health professionals whether to withhold or continue life-sustaining treatment if your condition is *terminal* or *irreversible*. It can be written or non-written.

A Medical Power of Attorney gives *another person* the authority to make health care decisions for you when you can't. Your condition does *not* have to be terminal or irreversible.



Since the purpose of both documents is different, it's best to have both.

### **What's the difference between an irreversible and a terminal condition?**

A Directive only takes effect if your condition is *terminal* or *irreversible*. An "irreversible condition" is a condition, injury or illness that:

- May be treated but is never cured, **and**
- Leaves you unable to care for or make decisions for yourself, **and**
- Is fatal unless life-sustaining treatment is provided.

In other words, you can be kept alive with certain treatments, but you will never get better. Cancer, major organ failure, and Alzheimer's disease may be considered irreversible.

If your condition is "terminal," it is considered incurable **and** you are expected to die within six months regardless of treatment. Irreversible conditions like cancer can become terminal later on.

### **What is a life-sustaining treatment?**

A "life-sustaining" treatment is treatment that is required to keep you alive. If the treatment ends, you will die. The term includes life-sustaining medications and artificial life support such as artificial hydration and nutrition (water and food), breathing machines, kidney dialysis treatment, and ventilators. It does *not* include treatment to manage your pain or to make you more comfortable.

### **What if I don't have a Directive?**

If you don't have a Directive, you will still get medical treatment. If you are too sick to discuss your treatment, the law says your doctor must consult with:

1. Your legal guardian
2. The person you appointed in your medical power of attorney
3. Your spouse
4. Your adult children who are reasonably available

5. Your parents
6. Your nearest living relative
7. Another doctor who is not involved in your care who must agree with your doctor's decision

The doctor must give priority to the people at the top of the list. For example, if you don't have a legal guardian or a medical power of attorney, your doctor will consult first with your spouse. If your spouse is deceased, then the doctor will consult with your adult children.



### **What do I need for my Directive to be valid?**

Your Directive can be written or non-written. Two witnesses must be present, and one of the two witnesses cannot be:

- Your relative (by blood or marriage)
- Someone with a claim against your estate
- Anyone you've named to make a treatment decision for you
- Your doctor or your doctor's employee
- An employee who cares for you at the health care facility where you are a patient, or
- An owner or admissions officer of the health care facility where you are a patient.

The two witnesses are not required if the Directive is signed in the presence of and is notarized by a notary public.

If your Directive is not in writing, your doctor and two witnesses (one of which must not be one as named above) must be present. Your words or actions will be written in your medical record, along with the names of your witnesses and doctor.

You can find the Directive to Physicians form at the link below, if you want to have a written Directive.

[FORM LINK \(HTTPS://TEXASLAWHELP.ORG/FORM/DIRECTIVE-PHYSICIANS\)](https://texaslawhelp.org/form/directive-physicians)

[2]

### **What if I change my mind?**

You can change your mind at any time, regardless of your mental state. What matters is what you want *now*.

You can cancel (revoke) your Directive at any time by:

- Telling your doctor that you have changed your mind, or
- Destroying the written Directive, or
- Signing and dating a written revocation, or
- Making a new Directive that cancels the old one.



You do not need to have a witness to cancel your Directive. If you do not make a new Directive, you will be treated as if you did not have one.

If you have more than one Directive, the most recent one will be followed.

### **What if my doctor refuses to follow my Directive?**

If your doctor finds it impossible to follow your Directive, you have the right to transfer to a different hospital. If your doctor decides not to follow your Directive for other reasons, a medical committee will review that doctor's decision within 48 hours. Your doctor cannot be on the committee, and you have the right to a written explanation of the committee's decision.

### **Where should I keep my Directive?**

Make some copies, and keep the original in a safe place. In an emergency, a fire-proof document case kept at your home is easier to access than a safety deposit box. Make sure your doctor knows that you have made a Directive so they can note it in your medical record. A copy of your Directive should be given to your doctor.

### **For more information...**

Call our attorney-staffed Legal Hotline for Texans at the Texas Legal Services Center. Advice is free for Texans 60 and over or for Medicare beneficiaries. Call our *Legal Hotline for Texans*:

- Tel.: 800.622.2520
- In Austin: 512.477.3950
- Web: [www.tlsc.org](http://www.tlsc.org) (<http://www.tlsc.org/>) [3]

Contact the Office of the Attorney General of Texas. Ask for the "Advance Care Planning" guide.

Senior Texans  
P.O. Box 12548  
Austin, TX 78711-2548

- Tel. 800.252.8011
- In Austin: 512.475.4413
- Web: [www.oag.state.tx.us/elder](http://www.oag.state.tx.us/elder) (<http://www.oag.state.tx.us/elder>) [4]

Contact the Texas Partnership for  
End-of-Life Care:

P.O. Box 80204  
Austin, Texas 78708-0204

- Tel. 512.453.9600
- Email: [info@txpec.org](mailto:info@txpec.org) (<mailto:info@txpec.org>) [5]
- Web: [www.txpec.org](http://www.txpec.org) (<http://www.txpec.org>) [6]

Contact the American Bar Association. Ask for “Consumer’s Tool Kit for Health  
Care Advance Planning.”

ABA Commission on Law and Aging

740 15<sup>th</sup> St. NW,  
Washington, DC 20005

- Tel. 202.662.8690
- Email: [amaaging@abanet.org](mailto:amaaging@abanet.org) (<mailto:amaaging@abanet.org>) [7]
- Web: [www.abanet.org/aging](http://www.abanet.org/aging) (<http://www.abanet.org/aging>) [8]

To read the law, search on the Internet for Texas Health and Safety Code,  
Subchapter B, Sections 166.031–166.053

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### Links

[1] <https://texaslawhelp.org/directory/legal-resource/legal-hotline-texans-texas-legal-services-center>

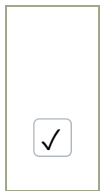
[2] <https://texaslawhelp.org/form/directive-physicians-texans>

[3] <http://www.tlsc.org/>

[4] <http://www.oag.state.tx.us/elder>

[5] <mailto:info@txpec.org>

[6] <http://www.txpec.org>



[7] <mailto:amaaging@abanet.org>

[8] <http://www.abanet.org/aging>

