



Key Life & Legal Documents for Senior Adults

Provided by CareTeam & SeniorSelect Home Care Companies



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Forward

It is important for everyone to have their affairs in order in the event of an emergency situations. It is even more imperative that senior adults take these important items into consideration. These are easy documents that require very little effort to complete, but which may mean a world of difference to you and your family should an urgent circumstance arise.

This guide describes and provides templates for the most important documents for seniors. Please discuss your decisions with your loved ones, and take the time to complete the documents that will matter most to you.

***Disclaimer:** These forms, documents and checklist contain general information about commonly encountered legal issues. This information is not legal advice. Use of this information is not a substitute for legal advice. CareTeam & SeniorSelect cannot provide legal advice, and you are encouraged to consult with an attorney of your choice about these issues, if you so choose. CareTeam & SeniorSelect cannot provide legal referral services. Laws affecting these common issues vary by state and are subject to interpretation by different courts. CareTeam & SeniorSelect strive to keep these forms and documents current; however, applicable laws may change, and CareTeam & SeniorSelect cannot guarantee that all the information is current. All forms and documents are provided without warranty, express or implied. The forms, documents or checklist may not contain information pertinent to your specific circumstances.*



Choosing an Agent to Represent You

At some point in your life, you may come to a time at which you are unable to make decisions for yourself. At this time, it is important that you have legally designated an “Agent” to act on your behalf and in your best interests.

Selecting an Agent is very important and highly personal. Here are some guidelines to assist you in your decision making:

1. You should appoint someone you know and trust. A family member or friend is best. Often the eldest child assumes this responsibility.
2. The Agent must be 18 years of age or older. If under the age of 18, they must have had their disabilities of minority removed.
3. If you select a health or residential care provider (i.e., your physician or an employee of a home health agency, hospital, nursing home, or residential care home, other than a relative), that person has to choose between acting as your Agent or ask your health or residential care provider. The law does not permit a person to do both at the same time.
4. You should inform your selected Agent(s) of his/her role and discuss the document to be signed. All agents and alternates should keep copies of documents in which they are named in a safe place.



Key Life & Legal Documents

Below are explanations and notes about each of the documents provided in this guide.

1. Physician's Statement of Incapacity and/or Disability

Purpose: Medical statement used to document incapacity of an individual to court of law to allow the guardianship to take effect, if disputed.

- Also used to determine incapacity of ward of the state and identify a guardian appointed by the court.

2. Statutory Durable Power of Attorney

Purpose: Names the person you wish to grant power to manage your financial affairs and make decisions on your behalf.

- Must be notarized AND recorded at the county clerk's office.
- Allows for an alternate to be named if the original agent is unable to perform the stated duties.
- Does not authorize anyone to make medical and other health care decisions for you.
- Provides a list of duties and allows one to limit the financial/legal powers the agent has rights to perform on your behalf.
- Documents one's preference regarding the named agent's gift-giving power.
- Allows to write in special instructions limiting or extending the powers granted to your named agent.
- Unless stated in special instructions, this document takes effect immediately.
- Gives two options regarding disability or incapacity (Option 1 is recommended to avoid process of determining guardian in case of incapacity:
 - Option 1: Power of Attorney is not affected by your subsequent disability or incapacity.
 - Option 2: Power of Attorney becomes effective upon your disability or incapacity (this requires guardianship documentation).



3. Advance Directive to Physicians and Family or Surrogates (DNR)

Purpose: States one's wishes about medical care in the event that one develops a terminal or irreversible condition and can no longer make medical decisions. By completing the directive, you can express your wishes regarding nutrition and hydration, life-sustaining treatment, other services or procedures and to express your desire to donate specified organs.

- Commonly known as a "Do Not Resuscitate Order" (DNR). Also comparable to a Medical Power of Attorney in some states.
- Becomes effective when the attending physician certifies in writing that one is in a terminal or irreversible condition.
- Copies are legal, so make plenty so that it is available when needed.
- Provide a copy of this document to your physician, hospital, and family or spokesperson.
- Consider a periodic review of this document. By periodic review, you can best assure that the directive reflects your preferences.
- This document is a requirement if on hospice care.
- Allows for you to list particular treatments that you do or do not want in specific circumstances.
- Requires two witnesses 18 years or older.
- It is your decision whether to complete an advance directive; it cannot be completed by family members, an agent under a durable power of attorney or a guardian.
- Sometimes referred to as a "Living Will", but is not the same as a Last Will and Testament.

4. Appointment of Agent to Control Disposition of Remains

Purpose: Allows one to name an agent to assume control of their remains upon death.

- This allows one to state their burial wishes upon death (i.e., cremation, location of burial, embalment).
- Allows for alternate agents to be named in the event the original agent is not able to perform the stated duties.
- Should provide copies to listed agents, alternates, and any businesses performing burial duties (i.e., cemetery organization, crematory, funeral director).
- Requires notarization.



Guardianship Glossary

Agent	One to has permission to act on another's behalf.
Attorney Ad Litem	A lawyer appointed by the court to represent the potential ward during the guardianship proceeding. Serves as disinterested person for an objective investigation.
Bond	An insurance policy required by the court in an amount set by the judge to cover the assets of the estate.
Conservatee	A minor being protected.
Conservator	Legally appointed protector; preserver of a minor.
Conservatorship	A legal relationship between the conservator and the conservatee.
Durable Power of Attorney	A document executed authorizing another person to act as an agent which continues in effect upon the onset of incapacity of the principal.
Estate	Denotes the real and personal property of a ward.
Fiduciary	A person or entity to whom property management or other responsibility is entrusted.
Guardian	A person who is appointed by the probate court on behalf of the ward to represent the ward's best interest.
Guardian Ad Litem	A disinterested person who is appointed by the court on behalf of the ward to represent the ward's best interest.
Guardian of the Estate	A person or entity who is responsible for managing the financial affairs of the ward (i.e., paying bills, collecting benefits, selling property).
Guardian of the Person	A person who is responsible for the health/well-being of the ward.



Incapacitated Person	An adult who because of physical or mental condition, is substantially unable to feed, clothes, or shelter him/herself, to care for his/her physical health, or to manage his/her financial affairs.
Letter of Guardianship	An official letter issued by the County Clerk's office which is written evidence of the appointment and authority of the guardian to act for the ward.
Oath	A sworn statement made by the guardian in writing in which he or she swears to fulfill their obligation.
Probate	Relating to a matter or proceeding involving a guardianship or an estate of a decedent.
Payee	A person who receives and disburses the ward's Social Security income or SSI outside of the jurisdiction of the court.
Probable Cause	A reasonable ground for supposing that an allegation is well-founded.
Principal	The person from whom an agent's authority is derived.
Surrogate	One appointed to act in place of another.
Testator	A person who dies leaving a Will.
Trust	A legal method used to manage and distribute property without a guardianship.
Ward	A person who has been found some measure of incapacity to care for him/herself or to manage their own property or financial affairs.
Guardian of the Person and of the Estate	A person who acts in both capacities (Person and Estate) of a ward.



Appendix A – Legal Document Templates

Following are templates that may be used for any of the important legal documents described in this guide.

- 1. Physician’s Statement of Incapacity and/or Disability**
- 2. Statutory Durable Power of Attorney**
- 3. Advance Directive to Physicians and Family or Surrogates (DNR)**
- 4. Appointment of Agent to Control Disposition of Remains**

Physician's Statement of Incapacity and/or Disability

I am a physician currently licensed in the State of _____. I have been the doctor for _____ ("patient") since _____ (date).

Based upon the examination and my observations, it is my opinion that the patient is incapacitated. The answers to the following questions are my opinion about the patient.

1. What is the general nature and degree of the incapacity?
2. What is the patient's medical history as it is related to the incapacity?
3. What is the prognosis, including the estimated severity, of the incapacity?
4. How and in what manner does the patient's physical or mental health affect ability to make or communicate responsible decisions?

5. Is the patient on any medications which affects demeanor or ability to participate in court proceedings? If so, what medications is patient on and how is his/her demeanor or ability to participate in court proceedings affected?

6. If the underlying diagnosis of the incapacity is that of "senility", please describe the precise physical and mental condition underlying the diagnosis of senility.
 - a. In your opinion, does the patient require placement in a long-term care facility for his/her protection and well-being?

7. Is the patient capable of operating a motor vehicle?

8. Is the patient capable of making an informed decision concerning matters decided by a public vote?

Answer the following only if this person is not fully incapacitated:

9. It is my opinion that the proposed ward is incapable of making a decision concerning the following as indicated by a checkmark beside the appropriate statement:

- The power and authority to collect and to file suit on debts, rentals, wages, and other claims due to the ward
- The power and authority to pay, compromise, and defend claims against the ward
- The power and authority to contract and to incur other obligations in the ward's behalf
- The power and authority to enter into all obligations and purchases in the ward's behalf
- The power and authority to apply for and to receive funds from governmental sources for the ward, or, in the alternative, to execute a binding waiver of funds to be received from governmental sources on behalf of the ward
- The power and authority to apply for and to consent to governmental services in the ward's behalf
- The power and authority to apply for, to consent to, and to enroll the ward in non-residential programs and services which are reasonably required and need by the ward and which are operated by public and private agencies and facilities
- The power and authority to make application for, to consent to, and to enroll ward in public and private residential care facilities
- The power and authority to make employment decisions
- The power and authority to apply for, arrange for, and consent to any and all psychological and psychiatric tests and evaluations for the ward, including, but not limited to, a comprehensive diagnosis and evaluation
- The power and authority to consent to the disclosure of the ward's psychological records, and metal records
- The power and authority to consent to major medical and dental treatment and testing for the ward, including surgery, psychotropic drugs, and including the choice of physician or dentist, except that the limited guardians shall not have

the power or authority to consent to a sterilization for the ward, and except minor medical problems such as cuts, bruises, colds, etc.

- The power and authority to apply, to consent to, and to enroll the ward in appropriate educational services
- The power and authority to make decisions related to military service
- The power and authority to enter or procure insurance contracts of every nature
- The power to propose or to consent a proposed transfer or discharge of the ward from a state school, state human development center, community MHMR center, or any other placement.

Sincerely,

_____ M.D.
Signature

Date

Address

Telephone

Oklahoma Statutory Form for Power of Attorney

NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THE UNIFORM STATUTORY FORM POWER OF ATTORNEY ACT. IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.

I _____ (insert your name) appoint
_____ (insert the name of the person appointed) as my
agent (attorney-in-fact) to act for me in any lawful way with respect to the following initialed
subjects:

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS.

TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING.

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

INITIAL

_____ (A) Real property transactions.

_____ (B) Tangible personal property transactions.

_____ (C) Stock and bond transactions.

_____ (D) Commodity and option transactions.

_____ (E) Banking and other financial institution transactions.

_____ (F) Business operating transactions.

_____ (G) Insurance and annuity transactions.

_____ (H) Estate, trust, and other beneficiary transactions.

_____ (I) Claims and litigation.

_____ (J) Personal and family maintenance.

_____ (K) Benefits from Social Security, Medicare, Medicaid, or other governmental programs, or military service.

_____ (L) Retirement plan transactions.

_____ (M) Tax matters.

_____ (N) ALL OF THE POWERS LISTED ABOVE. YOU NEED NOT INITIAL ANY OTHER LINES IF YOU INITIAL LINE (N).

SPECIAL INSTRUCTIONS:

ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT.

(Attach additional pages if needed.)

UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED.

This power of attorney will continue to be effective even though I become disabled, incapacitated, or incompetent.

STRIKE THE PRECEDING SENTENCE IF YOU DO NOT WANT THIS POWER OF ATTORNEY TO CONTINUE IF YOU BECOME DISABLED, INCAPACITATED, OR INCOMPETENT.

I agree that any third party who receives a copy of this document may act under it. Revocation of the power of attorney is not effective as to a third party until the third party learns of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.

Signed this _____ day of _____, 20____

Your Signature

Your Social Security Number

State of Oklahoma, County of _____

This document was acknowledged before me on _____ (date) by

Name of principal

Signature of Notary

Title and Rank

My commission expires: _____

BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, THE AGENT ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT.

Advance Directive for Health Care (Oklahoma)



I, _____, being of sound mind and eighteen (18) years of age or older, willfully and voluntarily make known my desire, by my instructions to others through my living will, or by my appointment of a health care proxy, or both, that my life shall not be artificially prolonged under the circumstances set forth below. I thus do hereby declare:

I. Living Will

a. If my attending physician and another physician determine that I am no longer able to make decisions regarding my medical treatment, I direct my attending physician and other health care providers, pursuant to the Oklahoma Rights of the Terminally Ill or Persistently Unconscious Act, to withhold or withdraw treatment from me under the circumstances I have indicated below by my signature. I understand that I will be given treatment that is necessary for my comfort or to alleviate my pain.

b. If I have a terminal condition:

(1). I direct that life-sustaining treatment shall be withheld or withdrawn if such treatment would only prolong my process of dying, and if my attending physician and another physician determine that I have an incurable and irreversible condition that even with the administration of life-sustaining treatment will cause my death within six (6) months. _____(signature)

(2). I understand that the subject of the artificial administration of nutrition and hydration (food and water) that will only prolong the process of dying from an incurable and irreversible condition is of particular importance. I understand that if I do not sign this paragraph, artificially administered nutrition and hydration will be administered to me. I further understand that if I sign this paragraph, I am authorizing the withholding or withdrawal of artificially administered nutrition (food) and hydration (water). _____ (signature)

(3). I direct that (add other medical directives, if any) _____
_____. _____(signature)

c. If I am persistently unconscious:

(1). I direct that life-sustaining treatment be withheld or withdrawn if such treatment will only serve to maintain me in an irreversible condition, as determined by my attending physician and another physician, in which thought and awareness of self and environment are absent. _____(signature)

(2). I understand that the subject of the artificial administration of nutrition and hydration (food and water) for individuals who have become persistently unconscious is of particular importance. I understand that if I do not sign this paragraph, artificially administered nutrition and hydration will be administered to me. I further understand that if I sign this paragraph, I am authorizing the withholding or withdrawal of artificially administered nutrition (food) and hydration (water). _____(signature)

(3). I direct that (add other medical directives, if any) _____
_____. _____(signature)

II. My Appointment of My Health Care Proxy

a. If my attending physician and another physician determine that I am no longer able to make decisions regarding my medical treatment, I direct my attending physician and other health care providers pursuant to the Oklahoma Rights of the Terminally Ill or Persistently Unconscious Act to follow the instructions of _____, whom I appoint as my health care proxy. If my health care proxy is unable or unwilling to serve, I appoint _____ as my alternate health care proxy with the same authority. My health care proxy is authorized to make whatever medical treatment decisions I could make if I were able, except that decisions regarding life-sustaining treatment can be made by my health care proxy or alternate health care proxy only as I indicate in the following sections.

b. If I have a terminal condition:

(1). I authorize my health care proxy to direct that life-sustaining treatment be withheld or withdrawn if such treatment would only prolong my process of dying and if my attending physician and another physician determine that I have an incurable and irreversible condition that even with the administration of life-sustaining treatment will cause my death within six (6) months. _____(signature)

(2). I understand that the subject of the artificial administration of nutrition and hydration (food and water) is of particular importance. I understand that if I do not sign this paragraph, artificially administered nutrition (food) or hydration (water) will be administered to me. I further understand that if I sign this paragraph, I am authorizing the withholding or withdrawal of artificially administered nutrition and hydration. _____(signature)

(3). I authorize my health care proxy to (add other medical directives, if any) _____(signature)

c. If I am persistently unconscious:

(1). I authorize my health care proxy to direct that life-sustaining treatment be withheld or withdrawn if such treatment will only serve to maintain me in an irreversible condition, as determined by my attending physician and another physician, in which thought and awareness of self and environment are absent. _____(signature)

(2). I understand that the subject of the artificial administration of nutrition and hydration (food and water) is of particular importance. I understand that if I do not sign this paragraph, artificially administered nutrition (food) and hydration (water) will be administered to me. I further understand that if I sign this paragraph, I am authorizing the withholding and withdrawal of artificially administered nutrition and hydration. _____(signature)

(3). I authorize my health care proxy to (add other medical directives, if any) _____(signature)

III. Anatomical Gifts

I direct that at the time of my death my entire body or designated body organs or body parts be donated for purposes of transplantation, therapy, advancement of medical or dental science or research or education pursuant to the provisions of the Uniform Anatomical Gift Act. Death means either irreversible cessation of circulatory and respiratory functions or irreversible cessation of all functions of the entire brain, including the brain stem. I specifically donate:

- My entire body; or
- The following body organs or parts:
 - lungs liver pancreas heart kidney
 - brain skin bones/marrow bloods/fluids
 - tissue arteries eyes/cornea/lens glands
 - other _____

(signature)

IV. Conflicting Provision

I understand that if I have completed both a living will and have appointed a health care proxy, and if there is a conflict between my health care proxy's decision and my living will, my living will shall take precedence unless I indicate otherwise.

(signature)

V. General Provisions

- a. I understand that if I have been diagnosed as pregnant and that diagnosis is known to my attending physician, this advance directive shall have no force or effect during the course of my pregnancy.
- b. In the absence of my ability to give directions regarding the use of life-sustaining procedures, it is my intention that this advance directive shall be honored by my family and physicians as the final expression of my legal right to refuse medical or surgical treatment including, but not limited to, the administration of any life-sustaining procedures, and I accept the consequences of such refusal.
- c. This advance directive shall be in effect until it is revoked.
- d. I understand that I may revoke this advance directive at any time.
- e. I understand and agree that if I have any prior directives, and if I sign this advance directive, my prior directives are revoked.

- f. I understand the full importance of this advance directive and I am emotionally and mentally competent to make this advance directive.

Signed this _____ day of _____, (date)

(Signature)

City, County and State of Residence

This advance directive was signed in my presence.

(Signature of Witness)

(Address)

(Signature of Witness)

(Address)

Appointment of Agent to Control Disposition of Remains

Under Oklahoma law, you may direct the manner in which your body, or parts of your body, is disposed. You may also designate an agent to direct the manner of disposition or carry out your wishes. You may choose to do either one of these, or both.

I, _____, residing at
_____, being of sound mind, make
known that upon my death my body shall be disposed of in the following manner:

I do hereby designate _____, having an address and
telephone number of _____,
_____ with the right to
carry out the disposition directions expressed in this document, and in the absence of
disposition directions, to have custody and control of my body and to determine the disposition
of my body.

If _____ (person designated as agent) shall decline to
act or cannot be located, then _____, having an address
and telephone number of _____,
shall act in that person's place.

Signature

Subscribed and sworn before me this _____ day of the month of
_____, of the year _____.

Notary public