

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: OHIO

REQUIREMENTS FOR ADVANCE DIRECTIVES UNDER STATE PLANS FOR MEDICAL ASSISTANCE

The following is a written description of the law of the State (whether statutory or as recognized by the courts of the State) concerning advance directives. If applicable States should include definitions of living will, durable power of attorney for health care, durable power of attorney, witness requirements, special State limitations on living will declarations, proxy designation, process information and State forms, and identify whether State law allows for a health care provider or agent of the provider to object to the implementation of advance directives on the basis of conscience.

Effective October 10, 1991 Ohio recognizes both Living Wills and Durable Power of Attorney for Healthcare for the purpose of advance directives. The Durable Power of Attorney for Healthcare authorizes the designated person to make healthcare decisions for the principal at any time that the attending physician determines that he has lost the capacity to make informed healthcare decisions for himself. Under Ohio law the Durable Power of Attorney for Healthcare has no expiration date; however, an expiration date may be specified.

An adult who is of sound mind may voluntarily, at any time, execute a declaration governing the use or continuation, or the withholding or withdrawal of life-sustaining treatment. The declarant may revoke the Living Will at any time.

A Living Will supersedes any general consent to treatment signed upon admission to a healthcare facility. If a declarant has both a valid Durable Power of Attorney for Healthcare and a Living Will, the Living Will supersedes the Durable Power to the extent that the provisions of the documents conflict.

The Living Will and Durable Power of Attorney must be signed by the declarant and witnessed by someone not related to the declarant. The witnesses must also not be his attending physician or the administrator of a nursing home where the declarant is receiving care.

These documents become operative when communicated to the attending physician and he and one other physician who examines the declarant determine that the declarant is in a terminal condition or in a permanently unconscious state, whichever is addressed in the document.

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If neither of the above documents exist, and the attending physician and one other physician determine that the patient is, will be, and has been for the past twelve months in a permanently unconscious state and no longer able to make informed decisions, appropriate individuals may make those decisions. Ohio specifies a priority list of persons to be included in these decisions: (1) guardian, (2) spouse, (3) adult child, (4) parents, (5) adult siblings, and (6) nearest related adult.

Ohio state law allows a healthcare facility or personnel the ability to not comply with advance directives on the basis of conscience; however, they must transfer the declarant to the care of a facility or physician who is able to comply with the directives.

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