

TAKE-1

# ADVANCE DIRECTIVES

XVIII AIRBORNE CORPS LEGAL ASSISTANCE OFFICE



## ADVANCE DIRECTIVES

### **1. Q. WHAT IS AN ADVANCE DIRECTIVE?**

A. An advance directive is a document that allows someone to act on your behalf with regard to medical care and treatment if you lose the ability to make decisions for yourself. An advance directive can also express an individual's desires, which must be followed, such as receiving artificial hydration or nutrition. This document is by no means a requirement but it certainly ensures that your wishes are followed.

### **2. Q. ARE THERE DIFFERENT KINDS OF ADVANCE DIRECTIVES?**

A. Yes. Two types of advance directives that are offered are *living wills/advance directives for a natural death* and *health care powers of attorney*. Each of these documents can be revoked if necessary.

### **3. Q. WHAT IS A LIVING WILL OR ADVANCE DIRECTIVE FOR A NATURAL DEATH?**

A. This document allows you to authorize or direct the withholding or withdrawal of life-prolonging measures that would only serve to delay your death. Your directions are followed in any of the following circumstances: (1) you have an incurable or irreversible condition that will result in your death within a relatively short period of time; (2) you become unconscious and your health care providers determine that, to a high degree of medical certainty, you will never regain consciousness; (3) you suffer from advanced dementia or any other condition which results in substantial loss of your cognitive ability, and your health care providers determine that, to a high degree of medical certainty, the loss is not reversible. You may indicate whether your health care providers must or may withhold/withdraw life-prolonging measures. You may also direct the provision of artificial nutrition and/or artificial hydration, together with or separate from life-prolonging measures.

### **4. Q. WHEN DOES A LIVING WILL OR ADVANCE DIRECTIVE FOR A NATURAL DEATH GO INTO EFFECT?**

A. The living will goes into effect only when your physician and one other physician determine that you meet one of the three conditions above.

### **5. Q. WHAT IS A HEALTH CARE POWER OF ATTORNEY?**

A. This document allows you to name another person or persons to consent or refuse any or all medical care on your behalf if you become unable to decide for yourself. Generally, your health care agent is granted full power and authority to make health care decisions to the same extent you would make such decisions if you were capable. The health care agent must not be a minor. More than one person is identified as a health care agent in case someone is unavailable or incapable of serving in that role. You may order the names for succession.

Special provisions and limitations may be spelled out. Examples include: the agent is limited by other advance directives (living will, advance instruction for mental health treatment, etc.); consideration of requirements under Traumatic Injury Servicemember Group Life Insurance (TSGLI); donation of organs or parts; and decisions on autopsy and disposition of remains.

**6. Q. WHEN DOES A HEALTH CARE POWER OF ATTORNEY GO INTO EFFECT?**

A. The health care power of attorney goes into effect when a physician states in writing that you are not able to make or to communicate your health care choices.

**7. Q. CAN BOTH DOCUMENTS BE USED TOGETHER?**

A. Yes. You may specify which document controls in the event there is a conflict. In certain circumstances the two documents may even be combined.

**8. Q. HOW DO I REVOKE MY LIVING WILL OR ADVANCE DIRECTIVE FOR A NATURAL DEATH IF I CHANGE MY MIND?**

A. Your living will not expire unless it is revoked. It can be canceled anytime by communicating your intent to cancel it in anyway. Make sure to inform your physician and those closest to you about your decision. It is also a good idea to destroy any copies.

**9. Q. HOW DO I REVOKE MY HEALTH CARE POWER OF ATTORNEY IF I CHANGE MY MIND?**

A. Your health care power of attorney will not expire unless it is revoked. It can be canceled or changed while you are able to make and communicate your decisions. You should communicate your intent to cancel to the named health care agents and the attending physician or eligible psychologist. You may also execute a new health care power of attorney thereby canceling the previous document by communicating your intent to your physician and named health care agents. It is also a good idea to destroy any copies.

**10. Q. WHERE SHOULD THESE DOCUMENTS BE KEPT?**

A. These documents should be kept in a safe place where your family members have access. Copies should be provided to: your family, your physician or mental health providers, health care agents, and other family members or close friends. You may consider filing a copy with the Advance Health Care Directive Registry maintained by the Secretary of State at [www.secretary.state.nc.us/ahcdr/](http://www.secretary.state.nc.us/ahcdr/).

**11. Q. WHAT HAPPENS IF I DON'T HAVE EITHER DOCUMENT?**

A. Your physician will ask your spouse or next of kin to consent to treatment, unless a court has appointed a guardian or you have a durable power of attorney which gives your attorney-in-fact powers to make health care decisions for you.

If your physician, along with another physician, determines that (1) you have an incurable or irreversible condition that will result in your death in a relatively short period of time, or (2) you are unconscious and, to a high degree of medical certainty, will never regain consciousness, the decision to withdraw or withhold life-prolonging measures may be made by your physician, after consulting with your guardian or attorney-in-fact, if applicable, and if not, after consulting with your spouse or next of kin.

**12. Q. WHAT IF I HAVE OTHER QUESTIONS OR SPECIFIC PROBLEMS I WANT HELP IN SOLVING?**

A. See a legal assistance attorney or a civilian lawyer as soon as possible. Seeing a lawyer early may not only solve a problem you have; it may also resolve or avoid a problem in the future, on this or other unrelated subjects. Seeing your lawyer early is practicing "Preventive Law."