

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State LOUISIANA

REQUIREMENTS FOR ADVANCE DIRECTIVES UNDER STATE PLANS FOR MEDICAL ASSISTANCE

Louisiana law recognizes that all persons have the right to control the decisions that relate to their own medical care. This control includes those decisions which an individual can make to have "life sustaining procedures" maintained, withheld or withdrawn in the event the person is diagnosed as having a terminal and irreversible condition. In Louisiana the way an individual makes such decisions and communicates the decision to others is called a "Declaration".

Each competent adult, i.e., each competent person eighteen (18) years of age or older, has the right to make a Declaration. This Declaration may be written, oral or non-verbal communication which expresses the person's wishes regarding the maintaining, withholding or withdrawing of life-sustaining procedures in the event the person is diagnosed as having a terminal and irreversible condition. A Declaration can also be utilized to designate another individual to make treatment decisions on behalf of the person making the Declaration. A Declaration must be made in the presence of two witnesses but there is no required legal format under the statute for a Declaration. Also any adult person may serve as a witness provided such a person is not a related by blood or marriage and is not entitled to inherit any portion of the estate of the person executing a Declaration. In Louisiana a Declaration may be registered with the Secretary of State for a fee of \$20.00 and may be referred to as a living will.

Louisiana law does allow a health care provider to object to the implementation of an advance directive. In such instances the health care provider must take all reasonable steps necessary to transfer the patient to a health care provider who does not object to implementation of the advance directive.

Another form of Declaration recognized by Louisiana law is the "Power of Attorney" which must be done in the presence of a Notary Public and must specify the person's intention to appoint someone to make health care decisions on his behalf.

Louisiana law does not presume that a person desires the maintenance of life-sustaining procedures. On the contrary the law allows certain other people to make a Declaration for a person having a terminal and irreversible condition who is unable to act on his own behalf and has not made a Declaration. Such a Declaration could authorize the withholding or withdrawing of life sustaining procedures.

A terminal and irreversible condition means a continual profound comatose state with no reasonable chance of recovery or a condition caused by injury, disease, or illness which, within reasonable medical judgement, would produce death and for which the application of life-sustaining procedures would serve only to postpone the moment of death.

TN # <u>91-28</u>	STATE <u>Louisiana</u>	Approval Date <u>1-30-91</u>	Effective Date <u>12/1/91</u>
Supersedes	DATE REC'D	DATE APP'VD <u>1-23-92</u>	A
TN # <u>pw Page</u>	DATE EFF <u>12-1-91</u>	HCFA 179 <u>91-28</u>	