

# **Procedure When a Person Has Not Executed a Directive and is Incompetent or Incapable of Communication**

HBV04282005

## **Disclosure Statement**

Qualified patient means an individual with a terminal or irreversible condition that has been diagnosed and certified in writing by the attending physician.

Irreversible condition means a condition, injury or illness: a.) that may be treated but is never cured or eliminated, b.) that leaves a person unable to care for or make decisions for the person's own self and / or c.) that without life-sustaining treatment provided in accordance with the prevailing standard of medical care is fatal.

Terminal condition means an incurable condition caused by injury, disease, or illness that according to reasonable medical judgment will produce death within six months, even with available life-sustaining treatment provided in accordance with the prevailing standard of medical care.

If an adult qualified individual has not executed or issued a Directive and is incompetent or otherwise mentally or physically incapable of communication, the attending physician and the individual's legal guardian or an agent under a Medical Power of Attorney may make treatment decisions that may include the decision to withhold or withdraw life-sustaining treatment from the individual.

If the individual does not have a legal guardian or an agent under a Medical Power of Attorney, the attending physician and one person, if available from one of the following categories in the following priority may make treatment decisions that may include a decision to withhold or withdraw life-sustaining treatment.

the individual's spouse;  
the individual's reasonably available adult children;  
the individual's parents; or  
the individual's nearest relative

A treatment decision must be based on knowledge of what the individual would desire, if known, and must be documented in the individual's medical record and signed by the attending physician.

If the individual does not have a legal guardian and a person listed in this section is not available, a treatment decision made under this section must be concurred with by another physician who is not involved in the treatment of the patient or who is a representative of an ethics or medical committee of the health care facility in which the individual is a patient.

The fact that an adult qualified individual has not executed or issued a Directive does not create presumption that the individual does not want a treatment decision to be made to withhold or withdraw life-sustaining treatment.

A relative listed in this section who wishes to challenge a treatment decision made by another relative under this section must apply for temporary guardianship under Section 875, Texas Probate Code.

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\_\_\_\_\_, has not executed or issued a Directive and has no legal guardian or an agent under a Medical Power of Attorney. The above named individual is incompetent or otherwise mentally or physically incapable of communication.

**The following is a brief description of:**

1. The individual's physical and mental condition, including diagnosis and description of terminal illness:

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2. Any Treatment desires of the individual, if known:

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3. Physician or Physician / Family-determined treatment decisions:

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**Signatures:**

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Family Representative's Signature	Printed Name	Address	Date
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Attending Physician's Signature	Printed Name	Address	Date
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Second Physician's Signature (if required)	Printed Name	Address	Date
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