

Parsonage Vandenack Williams LLC

THE NEBRASKA DECLARATION FORM (Commonly called a Living Will)

PURPOSE AND SCOPE OF A DECLARATION

The Nebraska declaration form allows you to express your desires in regard to the type of life support, if any, you wish to receive if you should become terminally ill or persistently vegetative and are no longer able to speak for yourself. The form states that if you lapse into a persistent vegetative state or have an incurable and irreversible terminal condition where you can no longer make decisions regarding medical treatment for yourself, your physician is directed to withhold or withdraw life-sustaining treatment.

For purposes of a Nebraska declaration, a "life-sustaining treatment" is defined as any medical procedure that will serve only to prolong the process of dying for a person with an incurable and irreversible terminal condition, or will maintain a person in a persistent vegetative state. The declaration form allows you to specify which, if any, life-sustaining treatments you wish to have withheld or withdrawn.

For purposes of a Nebraska declaration a "persistent vegetative state" is defined as a medical condition diagnosed in accordance with currently accepted medical standards as being a total and irreversible loss of consciousness and capacity for cognitive interaction with the environment and no reasonable hope for improvement.

For purposes of a Nebraska declaration a "terminal condition" is an incurable and irreversible medical condition that, without the administration of life-sustaining treatment will, in the opinion of your physician, result in death within a relatively short time.

Executing a declaration does not restrict your power to make your own decisions regarding life-sustaining treatment. As long as you are able, you can make your own decisions regarding life-sustaining treatment. Executing a declaration does not relieve your physician of the responsibility of providing treatment for your comfort care or alleviation of pain, including nutrition and hydration. The declaration cannot be used to withhold or withdraw life-sustaining treatment from a pregnant woman. Because this restriction may be unconstitutional, an instruction by you to withhold or withdraw life-sustaining treatment during pregnancy may be enforceable.

MAKING A DECLARATION OPERATIONAL

Your declaration takes effect when all of the following four conditions are met:

- (1) Your declaration is communicated to your attending physician;
- (2) You are determined by your attending physician to be in a terminal condition or in a persistent vegetative state;
- (3) You are determined by your attending physician to be unable to make decisions regarding administration of life-sustaining treatment; and
- (4) The attending physician has notified a reasonably available member of your immediate family or guardian, if any, of his or her diagnosis and of the intent to invoke your declaration.

When your declaration becomes operative, the attending physician and other health care providers must act in accordance with its provisions, or if your physician or health care provider is unwilling to comply with the declaration, they must, as promptly as practicable, take all reasonable steps to transfer you to the care of a physician or health care provider who will act in accordance with its provisions. If your physician or health care provider refuses to transfer you to another physician or health care provider, or if your physician or health care provider willfully fails to record a determination that you have a terminal condition or are in a persistent vegetative state, then your physician or health care provider is guilty of a misdemeanor.

Signed originals of your declaration should be kept in a safe place that is known to your family and friends and that is easily accessible to them in an emergency. You may wish to provide photocopies of your executed declaration to family members and close friends. You should note on photocopies distributed to family and friends where the original is located. Do not keep a signed original in your safe deposit box as access could be difficult.

You should also provide your doctor with a photocopy of your declaration. Your doctor may be able to refer you to a hospital likely to comply with your declaration in the event you become seriously ill or injured. If your doctor indicates he or she is unlikely to comply with your declaration, then you may wish to make advance arrangements for your transfer to a physician willing to comply with your declaration, in the event you become terminally ill or vegetative.

REVOKING A DECLARATION

You may revoke your declaration at any time, in any manner, without regard to your mental or physical condition. Your revocation is effective when communicated to your physician or health care provider by you or anyone who witnesses your revocation.