

# Advanced Directives “End of Life Care” 2024

# Advanced Directives “End of Life Care”

## Advanced Directives

Is a witnessed document or oral statement in which instructions are given by a principal or in which the principal's desires are expressed concerning any aspect of the principal's health care, and includes, but is not limited to, the designation of a Health Care Surrogate, a Living Will, or an anatomical gift. Advance Directives may be modified or revoked at any time by the patient if they are a Capacitated Adult.



### POLICY AND PROCEDURE

**TITLE: End-of-Life Care (Advance Directives and Withholding/Withdrawing Procedures)**

**EFFECTIVE DATE:** December 2022

**OWNER OF THIS DOCUMENT:** VP Chief Nursing Officer

**SCOPE:** This document applies to Baptist Hospital, Gulf Breeze Hospital and Jay Hospital.

**STATEMENT OF PURPOSE:** To provide guidance for Workforce Members regarding standards for obtaining and following Advance Directives and to guide clinical practice regarding end-of-life care (Advance Directives and Withholding/Withdrawing Life Support).

#### **DEFINITIONS:**

**Advance Directive:** A witnessed document or oral statement in which instructions are given by a principal or in which the principal's desires are expressed concerning any aspect of the principal's health care, and includes, but is not limited to, the designation of a Health Care Surrogate, a Living Will, or an anatomical gift. Advance Directives may be modified or revoked at any time by the patient if they are a Capacitated Adult.

**Attending Physician:** The Physician selected by, or assigned to a patient, who has primary responsibility for the patient's treatment and care.

**Capacitated Adult:** An adult patient who is alert, capable of understanding a lay description of medical procedures, and able to appreciate the consequences of providing, withholding, or withdrawing medical procedures.

**Close Personal Friend:** Any person 18 years of age or older who has exhibited special care and concern for the patient, and who presents an affidavit to the health care facility or to the attending or treating physician stating that he or she is a friend of the patient; is willing and able to become involved in the patient's health care; and has maintained such regular contact with the patient so as to be familiar with the patient's activities, health, and religious or moral beliefs.

**Curative/Comfort Care:** Most medical treatment is aimed at cure – making the patient better or well enough to be discharged to another facility or home. When cure is not possible, the goal of treatment changes to providing maximum comfort, which can mean the withdrawal of life supportive or prolonging treatments. .

**Do Not Resuscitate/Arrest:** This order is a designation of code status. This means that if the patient's breathing or heart stops, CPR will not be initiated. .

**Do Not Resuscitate/Comfort Measures Only:** This is a designation used when the goal is to enhance the quality of life yet remaining for the patient and family while supporting the patient's autonomy and dignity. It is a decision to allow the patient to die naturally and as gently as possible. Procedures not medically necessary to meet these

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goals should be omitted or withdrawn.

**Document Review Committee (DRC):** A committee consisting of the patient’s Attending Physician; the Director of Governance, Risk and Compliance (or his/her designee); a representative from the Medical Ethics Committee; and the Chief Nursing Officer or his/her designee. Hospital legal counsel shall be available to the committee as needed. The purpose of the DRC is to verify policy has been followed, all the required documentation is present in the record, and any case-specific issues have been appropriately addressed and documented.

**Durable Power of Attorney for Health Care:** An appointed agent, or a so called “attorney-in-fact”, to act for individual execution of legal, business, property affairs, including Health Care Decision making, in place of establishing a legal guardian.

**End Stage Condition:** An irreversible condition that is caused by injury, disease or illness which has resulted in progressively severe and permanent deterioration, and which, to a reasonable degree of medical probability, treatment of the condition would be ineffective.

**Health Care Decision:** Informed Consent, refusal of consent, or withdrawal of consent to any and all health care, including life-prolonging procedures; application for health care insurance or payment programs or benefits; anatomical gift donation.

**Healthcare Surrogate:** Any competent adult expressly designated by a principal to make health care decisions on behalf of the principal upon the principal’s incapacity. Designation of a Health Care Surrogate must be made in writing, signed by the patient and two witnesses (neither of whom may be the Health Care Surrogate and one of whom may not be a spouse or blood relative).

**Incapacitated Adult:** Adult patient, physically or mentally unable to communicate a willful and knowing Health Care Decision; for the purpose of making an anatomical gift, the term also includes a patient who is deceased.

**Informed Consent:** Consent voluntarily given by a person after a sufficient explanation and disclosure of the subject matter involved to enable that person to have a general understanding of the treatment or procedure and the medically acceptable alternatives, including the substantial risks and hazards inherent in the proposed treatment or procedures, and to make a knowing Health Care Decision, without coercion or undue influence.

**Life Prolonging Procedures:** Any medical procedure, treatment or intervention, including artificially provided sustenance and hydration, which sustains, restores, or supplants a spontaneous vital function. The term does not include the administration of medication or performance of medical procedures, when such medication or procedure is deemed necessary to provide Comfort Care or to alleviate pain.

**Living Will:** 1) A witnessed document in writing, voluntarily executed by the patient in accordance with s. 765.302; or 2) A witnessed oral statement made by the patient expressing his or her instructions concerning life-prolonging procedure. A Living Will must be signed by the patient in the presence of two subscribing witnesses, one of whom is neither a spouse nor a blood relative of the patient. If the patient is physically unable to sign the Living Will, one of the witnesses must subscribe the patient’s signature in the patient’s presence and at the patient’s direction.

**Minor:** An unmarried individual under the age of 18 that has not otherwise been legally emancipated.

**Palliative Care:** A team approach to patient and family care that aims to relieve suffering

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and improve quality of life at any age, at any stage of serious illness, and in any setting, whether the goal is cure or Comfort Care.

**Persistent Vegetative State:** A permanent and irreversible condition of unconsciousness in which there is: a) The absence of voluntary action or cognitive behavior of any kind, b) An inability to communicate or interact purposefully with the environment.

**Physician Orders for Life Sustaining Treatment (POLST):** An order set that aims to honor a patient’s end-of-life care wishes in their oral or written Living Will.

**Proxy:** A competent adult who has not been expressly designated to make Health Care Decisions for a particular Incapacitated individual, but who, nevertheless, is authorized pursuant to s. 765.401 to make Health Care Decisions for such individual.

**Support Person:** A competent adult expressly designated by a principle to act on the patient’s behalf, as to visitor preferences, in the event that that patient is Incapacitated or otherwise unable to articulate their preferences.

**Team Members:** Full-time, part-time and PRN employees of BHC.

**Terminal Condition:** A condition caused by injury, disease, or illness from which there is no reasonable medical probability of recovery and which, without treatment, can be expected to cause death.

## POLICY:

1. All patients will be asked about and given information regarding Advance Directives (Living Wills and Health Care Surrogate designations) by Team Members of the Admitting or Registration departments, and/or as part of the nursing assessment process.
2. A documented Advance Directive will be followed as guidance to provide the level of care desired by the patient at the end of life.

## PROCEDURE

1. The procedures for handling of a patient’s Advance Directive shall be determined by the setting in which the patient is being treated, that is, outpatient, Emergency Department, or inpatient.
2. Outpatient Settings (OP departments or OP procedures)
  - a. Upon registration, inquiry is made as to Advance Directives. Educational information is given to patients who do not have an executed directive.
  - b. For patients having an executed directive, a copy will be placed in the patient’s medical record as soon as possible for reference in the event that a higher level of care is needed for the patient.
    - i. In order for a patient’s Advance Directive or a yellow STATE OF FLORIDA Do Not Resuscitate Order (DNRO form 1896) to be honored, a current order MUST be obtained from the patient’s Attending Physician in the outpatient departments or for outpatient procedures. If a patient requires advanced intervention in an outpatient setting, either 911 or a code blue will be called (depending on the location of the outpatient department), stabilization will be attempted, and the patient will be transferred to a higher level of care.

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3. **Emergency Department:** If an Advance Directive is presented in the Emergency Department, a reasonable review will be made of the directive by the Emergency Department physician when time permits and without endangering the patient's life, to determine whether the patient lacks decision-making capacity and if the Advance Directive can be honored.
  
4. **Inpatient Hospital Settings:**
  - a. **Acquiring an Advance Directive:**
    - i. During the registration process, the Registrar will ask the patient or his/her Agent if the patient has a Living Will.
    - ii. If the patient does not have one, the registrar will provide the Living Will document.
    - iii. If the patient does have one, the registrar will advise the patient to provide a copy to his or her nurse.
    - iv. During the initial nursing assessment, the Admitting Nurse will re-verify if the patient has a Living Will.
    - v. If the patient has a Living Will, the nurse will include a copy in the medical record.
    - vi. If the patient does not have a Living Will, the nurse will provide the patient with the Living Will booklet and/or notify case management or social services.
    - vii. The nurse will inform the family that until a copy of the Living Will is provided, the patient will be treated as if there is no Living Will.
  
5. **Implementing a Living Will**
  - a. If a person has made a Living Will but has not designated a Health Care Surrogate or Durable Power of Attorney for Health Care, the Attending Physician may proceed as directed by the patient in the Living Will.
    - i. In the event of a dispute or disagreement concerning the Attending Physician's decision to withhold or withdraw life-prolonging procedures, the Attending Physician shall not withhold or withdraw life-prolonging procedures pending review.
    - ii. If a review of a disputed decision is not sought within 7 days following the Attending Physician's decision to withhold or withdraw life-prolonging procedures, the Attending Physician may proceed in accordance with the patient's instructions in the Living Will.
    - iii. Before proceeding in accordance with the patient's Living Will, it must be documented in the health record by a physician documenting:
      - The patient does not have a reasonable medical probability of recovering capacity so that the right could be exercised directly by the patient; and
      - The patient has an End Stage Condition, is in a Persistent Vegetative State, or has a Terminal Condition; and
      - Any limitations or conditions expressed orally or in a written declaration have been carefully considered and satisfied.
  
6. **Absence of a Living Will:**
  - a. In the absence of a Living Will, the decision to withhold or withdraw life-prolonging

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procedures from a patient may be made by a Health Care Surrogate or Durable Power of Attorney for Health Care unless their authority is limited in the designating documents. Before exercising the Incapacitated patient's right to forego treatment, it must be documented in the chart by a physician and the Health Care Surrogate or Durable Power of Attorney for Health Care must be satisfied that:

- i. The patient does not have a reasonable medical probability of recovering capacity so that the right could be exercised by the patient; and
  - ii. The patient has an End-Stage Condition, the patient is in a Persistent Vegetative State, or the patient has a Terminal Condition.
7. Capacity of Patient
- a. A patient is presumed to be capable of making Health Care Decisions for her or himself, unless she or he is determined to be Incapacitated.
  - b. Incapacity may not be inferred from the person's voluntary, or involuntary hospitalization for mental illness, or from her or his mental retardation.
  - c. If a patient's capacity to make Health Care Decisions for herself or himself or provide Informed Consent is in question, the Attending Physician shall evaluate the patient's capacity and, if the physician concludes that the patient lacks capacity, enter that evaluation in the patient's health record.
  - d. If the Attending Physician has a question as to whether the patient lacks capacity, another physician shall also evaluate the patient's capacity.
  - e. All evaluations should be documented in the health record.
  - f. If the physicians are in agreement that the patient lacks capacity, the Surrogate or Durable Power of Attorney for Health Care shall be notified in writing (if possible) that their authority has commenced.
  - g. The Agent's authority shall remain in effect until it has been determined that the patient has regained capacity.
8. Responsibility of the Health Care Surrogate or Durable Power of Attorney for Health Care.
- a. The Health Care Surrogate or Durable Power of Attorney for Health Care, in accordance with the patient's instructions, unless such authority has been expressly limited by the patient, shall:
    - i. Have authority to act for the patient and to make all Health Care Decisions for the patient during the patient's incapacity.
    - ii. Consult expeditiously with appropriate health care providers to provide Informed Consent and make only Health Care Decisions for the patient which he or she believes the patient would have made under the circumstances if the patient were capable of making such decisions.
    - iii. If there is no indication of what the patient would have chosen, the Surrogate may consider the patient's best interest in deciding that proposed treatments are to be withheld or that treatments currently in effect are to be withdrawn.
    - iv. Provide written consent using an appropriate form whenever consent is required, including a physician's order not to resuscitate.
    - v. Be provided access to the appropriate medical records of the patient.
    - vi. Have the authority to apply for public benefits, such as Medicare and

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Medicaid, for the patient and have access to information regarding the patient's income and assets and banking and financial records to the extent required to make application.

9. Absence of an Advance Directive and/or Health Care Surrogate or Durable Power of Attorney for Health Care.
  - a. The Proxy. If an Incapacitated Patient has not executed an Advance Directive, or there is no Health Care Surrogate or Durable Power of Attorney for Health Care, Health Care Decisions may be made for the patient by any of the following individuals, in the following order of priority, if no individual in a prior class is reasonably available, willing, or competent to act:
    - i. The judicially appointed guardian of the patient or the guardian advocate of the person having a developmental disability, who has been authorized to consent to medical treatment, if such guardian has previously been appointed; however, this paragraph shall not be construed to require such appointment before a treatment decision can be made under this subsection;
    - ii. The patient's spouse;
    - iii. An adult child of the patient, or if the patient has more than one adult child, a majority of the adult children who are reasonably available for consultation;
    - iv. A parent of the patient;
    - v. The adult sibling of the patient or, if the patient has more than one sibling, a majority of the adult siblings who are reasonably available for consultation;
    - vi. An adult relative of the patient who has exhibited special care and concern for the patient and who has maintained regular contact with the patient and who is familiar with the patient's activities, health, and religious or moral beliefs; or
    - vii. A Close Personal Friend of the patient.
    - viii. A licensed clinical social worker, who is a graduate of a court-approved guardianship program.
  - b. Such a Proxy must be selected by the Medical Ethics Committee and must not be employed by the hospital.
  - c. The Proxy will be notified that, upon request, the hospital shall make available a second physician, not involved in the patient's care to assist the Proxy in evaluating treatment.
  - d. Decisions to withhold or withdraw life-prolonging procedures will be reviewed by the Medical Ethics Committee.
  - e. Documentation of efforts to locate proxies from prior classes must be recorded in the patient health record.
  - f. Any Health Care Decision made by a Proxy must be based on the Proxy's Informed Consent and on the decision the Proxy reasonably believes the patient would have made under the circumstances.
  - g. If there is no indication of what the patient would have chosen, the Proxy may consider the patient's best interest in deciding that proposed treatments are to be withheld or that treatments currently in effect are to be withdrawn.
  - h. Before making a Health Care Decision for an Incapacitated Patient, the Proxy must comply with the provisions of the “Absence of a Living Will” and “Responsibility of the Health Care Surrogate or Durable Power of Attorney for Health Care”

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instructions above (on pages 4 and 5) EXCEPT that a Proxy's decision to withhold or withdraw Life Prolonging Procedures must be supported by clear and convincing evidence that the decision would have been the one the patient would have chosen had the patient had capacity or, if there is no indication of what the patient would have chosen, that the decision is in the patient's best interest.

10. Review of a Health Care Surrogate, Proxy, or Durable Power of Attorney Decision
  - a. The patient's family, the health care facility, or the Attending Physician, or any other interested person who may reasonably be expected to be directly affected by the Health Care Surrogate, Proxy, or Durable Power of Attorney for Health Care Decision concerning any Health Care Decision may seek expedited judicial intervention, if that person believes:
    - i. The decision is not in accord with the patient's known desires or the law;
    - ii. The Advance Directive is ambiguous, or the patient has changed his or her mind after execution of the Advance Directive;
    - iii. The Health Care Surrogate, Proxy, or Durable Power of Attorney for Health Care was improperly designated or appointed, or the designation is no longer effective or has been revoked;
    - iv. The Health Care Surrogate, Proxy, or Durable Power of Attorney for Health Care has failed to discharge duties, or incapacity or illness renders them incapable of discharging duties;
    - v. The Health Care Surrogate, Proxy, or Durable Power of Attorney for Health Care has abused his or her power; or
    - vi. The patient has sufficient capacity to make his or her own Health Care Decisions
11. Withholding or Withdrawing Life Prolonging Procedures.
  - a. Patients in a Persistent Vegetative State. For patients in a Persistent Vegetative State, as determined by the Attending Physician in accordance with currently accepted medical standards, who have no Advance Directive and for whom there is no evidence indicating what the person would have wanted under such conditions, and for whom, after a reasonably diligent inquiry, no Proxy is available, Life-Prolonging Procedures may be withheld or withdrawn under the following conditions:
    - i. The person has a judicially appointed guardian representing his or her best interest with authority to consent to medical treatment; and
    - ii. The guardian and the person's Attending Physician, in consultation with the Medical Ethics Committee, conclude that the condition is permanent and that there is no reasonable medical probability for recovery and that withholding or withdrawing Life Prolonging Procedures is in the best interest of the patient.
    - iii. The Medical Ethics Committee shall review the case with the guardian, in consultation with the person's Attending Physician, to determine whether the condition is permanent and there is no reasonable medical probability for recovery.
  - b. Patients who are Capacitated Adults.
    - i. To withhold or withdraw Life Prolonging Procedures from a Capacitated Adult,



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- the Attending Physician must determine that the patient has capacity and document such determination in the patient's health record.
- ii. The Attending Physician must fully discuss with the patient the consequences of the patient's decision to withhold or withdraw Life Prolonging Procedures, the treatment options, and the effects of such treatment options on the patient's life.
  - iii. The Attending Physician must write an order documenting the patient's decision to withhold or withdraw Life Prolonging Procedures, but not at this time authorizing the withholding or withdrawal. (The order authorizing the withholding or withdrawal follows the completion of the notification procedures below.)
  - iv. If the patient has any Minor children or others financially dependent on him or her; if the patient is suicidal; if the case involves injury or legal/criminal issues; or if there is any possibility that any of these conditions exist, the situation should be immediately referred to the Chief Medical Officer, Chief Nursing Office and the Director of Governance, Risk and Compliance, before Life Prolonging Procedures are discontinued.
- c. Patients who are Incapacitated Adults: Life Prolonging Procedures may be withheld or withdrawn from Incapacitated Adults only when the Attending Physician and at least one other consulting physician must separately examine the patient and document the following in the patient health record:
- i. That the patient has a Terminal Condition, an End Stage Condition, or is in a Persistent Vegetative State
  - ii. That the patient is Incapacitated and has no reasonable probability of recovering capacity so that the right could be exercised directly by the patient.
  - iii. If at any time after the determination of incapacity, there should be a substantial change in the patient's condition, raising a reasonable probability that the patient has regained capacity, the procedures set forth in “Withholding or Withdrawing Life Prolonging Procedures” above, should be followed; and that any conditions and limitations for withholding or withdrawing life-prolonging procedures, as expressed by the patient while capacitated, have been carefully considered and satisfied.
- d. If the patient has a Health Care Surrogate or Durable Power of Attorney for Health Care,
- i. The Hospital must notify the surrogate that he or she is to assume his or her duties.
  - ii. The required notification must be documented in the patient health record.
  - iii. If the patient has not expressed his or her intent, either orally or in writing, as to the withholding or withdrawing of Life Prolonging Procedures, the Health Care Surrogate or Durable Power of Attorney may make the decision for the patient.
- e. If the patient does not have a Health Care Surrogate or Durable Power of Attorney for Health Care,
- i. The Hospital may select a Proxy from the priority list set forth in “The Proxy” Section under the heading, “Absence of an Advanced Directive and/or Health Care Surrogate or Durable Power of Attorney for Health Care” above (on Page

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- 4).
  - ii. The Hospital must notify the Proxy that the patient is Incapacitated and that the Proxy must assume his duties.
  - iii. The required notification must be documented in the patient health record.
  - f. If the patient does not have a Health Care Surrogate, Durable Power of Attorney for Health Care or Proxy:
    - i. The Attending Physician may proceed according to the patient's instructions expressed by the patient while capacitated in a Living Will, provided that the Attending Physician and at least one other consulting physician have documented in the findings set forth in, “Withholding or Withdrawing Life Prolonging Procedures”, Heading “Patients who are Incapacitated Adults” items listed in item 3 above (on this page).
    - ii. In the event of a dispute concerning the Attending Physician’s decision to withhold or withdraw Life Prolonging Procedures, the Attending Physician shall not withhold or withdraw life-prolonging procedures pending review according to Florida law.
    - iii. If, after notification of the family a review is not sought within seven (7) days following the physician's decision, the physician may proceed according to the patient's instructions in his Living Will.
    - iv. The seven (7) day waiting period, required by Florida Statutes Section 765.304(1), applies only in situations where there is no Health Care Surrogate, Durable Power of Attorney for Health Care, or Proxy and the physician elects to follow the patient's instructions, expressed by the patient while capacitated in a Living Will.
    - v. If objections from family members are received, if a conflict between family members occurs, or a court order is entered, the situation should be referred to the Chief Medical Officer, Chief Nursing Officer, and the Director of Governance, Risk and Compliance before life-prolonging procedures are discontinued.
      - It is important that each step above be carefully documented in the patient's record, including copies of the notices, oral notices given, consents from family members and all other procedures.
      - Copies of the patient's Living Will and Surrogate designation, if applicable, should be placed in the patient health record.
12. Documentation:
- a. FM-0332 Appointment of Healthcare Surrogate and Living Will
  - b. PS 603-222 Physician Certification for Withholding or Withdrawing Life-Prolonging Procedures

**REFERENCES:**

NIAHO Accreditation Requirements, Revision 21.0  
Florida Statute 765

**RESCISSION:** End-of-Life Care (Advance Directives and Withholding/Withdrawing effective July 2020, is hereby rescinded.

# Advanced Directives “End of Life Care”

Upon admission every patient receives information on Advanced Directives.

This information includes:

- Information on Advanced Directives and a Living Will.
- Resources for more information and/or assistance
- An Appointment of Healthcare Surrogate and Living Will Form

Living will can be found in AllScripts in the patient’s chart.

## ADVANCE DIRECTIVES: Speak for Yourself

*A Guide to Understanding Advance Directives and Living Wills*

This document was prepared to provide information in general terms on health care advance directives and to explain Baptist Health Care’s policies and procedures governing advance directives. This is general information and not specific advice. You may want to consult your personal attorney, spiritual advisor, family and friends before completing any advance directive. Signing an advance directive is not a condition of admission or continued stay in this facility.

### A Patient’s Right to Decide

Every competent adult has the right to make decisions concerning his or her own health, including the right to choose or refuse medical treatment.

When a person becomes unable to make decisions due to a physical or mental change, such as being in a coma or developing dementia (like Alzheimer’s disease), they are considered incapacitated. To make sure that an incapacitated person’s decisions about health care will still be respected, the Florida legislature enacted legislation pertinent to health care advance directive. The law requires the right of a competent adult to make an advance directive instructing his or her physician to provide, withhold, or withdraw life-prolonging procedures; to designate another individual to make treatment decisions if the person becomes unable to make his or her decisions; and/or to indicate the desire to make an anatomical donation after death.

By law, hospitals are required to provide their patients with written information, such as this pamphlet, concerning health care advance directives.

### Questions About Health Care Advance Directives

#### What is an advance directive?

It is a written or oral statement about how you want medical decisions made should you not be able to make them yourself and/or it can express your wish to make and anatomical donations after death. Some people make advance directives when they are diagnosed with a life-threatening illness. Others put their wishes into writing when they are healthy, often as part of their estate planning.

#### Three types of advance directives are:

- A Living Will
- A Health Care Surrogate Designation
- An Anatomical Donation

You might want to choose one, two, or all three of these forms.

#### What is a living will?

It is a written or oral statement of the kind of medical care you want or do not want if you become unable to make your own decisions. It is called a living will because it takes effect while you are still living. You may wish to speak to your health care provider or attorney to be certain you have completed the living will in a way that your wishes will be understood.

#### What is a health care surrogate designation?

It is a document naming another person as your representative to make medical decisions for you if you are unable to make them yourself. You can include instructions about any treatment you want or do not want, similar to a living will. You can also designate an alternate surrogate.

#### What is an anatomical donation?

It is a document that indicates your wish to donate, at death, all or part of your body. This can be an organ and tissue donation to persons in need, or a donation of your body for training of health care workers. You can indicate your choice to be an organ donor by designating it on your driver’s license or state identification card (at your nearest driver’s license office), signing a uniform donor form, or expressing your wish in a living will.