Advance Directives

prepared by

Medical-Moral Commission
Archdiocese of Dubuque

November 2010; updated May 2014

Attached you will find the following forms for executing advance directives:

- Living Will
- Durable Power of Attorney for Health Care
- Authorization for Release of Protected Health Information to Nominated Health Care Attorney in Fact
- Addendum for Women of Childbearing Age

You may use these forms to complete your advance directives or employ them as models for executing other advance directive forms.

Living Will vs. Durable Power of Attorney for Health Care
One has the option of executing a living will, or a durable power of attorney for health care, or both documents.

A durable power of attorney for health care is more comprehensive than a living will. While a living will becomes effective only when the principal is incapable of making health care decisions and is terminally ill (or, in Iowa law, permanently unconscious), the durable power of attorney for health care becomes effective whenever the principal becomes incapacitated to make his/her own decisions.

A living will is typically used to *forgo* treatments. A durable power of attorney for health care allows for both decisions to forgo treatments and decisions to undertake treatments.

A living will is a static document. A durable power of attorney for health care has the advantage of appointing someone to evaluate the specific situation of the patient.

Iowa's Living Will and Catholic Teaching on Medically Assisted Nutrition and Hydration
The *Ethical and Religious Directives for Catholic Health Care Services (ERD)* is a document from the U.S. Bishops summarizing Church teaching on issues in health care ethics. At their November 2009 meeting the Bishops approved the following revision of the directive on medically assisted nutrition and hydration:

> In principle, there is an obligation to provide patients with food and water, including medically assisted nutrition and hydration for those who cannot take food orally. This obligation extends to patients in chronic and presumably irreversible conditions (e.g., the 'persistent vegetative state') who can reasonably be expected to live indefinitely if given such care. Medically assisted nutrition and hydration becomes morally optional when they cannot reasonably be expected to prolong life or when they would be "excessively burdensome for the patient or [would] cause significant physical discomfort, for example resulting from complications in the use of the means employed." For instance, as a patient draws close to inevitable death from an underlying progressive and fatal condition, certain measures to provide nutrition and hydration may become excessively burdensome and therefore not obligatory in light of their very limited ability to prolong life or provide comfort." (no. 58*)*

This revision is regarded as clarifying the meaning of language about a "presumption in favor of providing nutrition and hydration to all patients" that was part of the former directive. This clarification is made in light of an allocution of John Paul II (March 2004) and a subsequent statement from the Congregation for the Doctrine of the Faith on this allocution (August 2007). (Catholic Health Association of the United State, Comment Regarding Revision to Directive *58,* Nov. 18, 2009)

The revised directive makes the following points:

- In principle, there is an obligation to provide medically assisted nutrition and hydration to patients in need of it.
- However, there are cases in which is it morally permissible to forgo medically assisted nutrition and hydration.
- The following standard is to be used for determining when it is permissible to forgo medically assisted nutrition and hydration: the procedure cannot reasonably be expected to prolong life or would be excessively burdensome for the patient or would cause significant physical discomfort for the patient.
- The fact that a patient is in a persistent/permanent vegetative state is not in itself sufficient reason to forgo medically assisted nutrition and hydration for that patient. The aforementioned standard for forgoing medically assisted nutrition and hydration must be met.
- When a patient is drawing close to inevitable death, the use of medically assisted nutrition and hydration may well not be obligatory.

This teaching of the Church has implications for Iowa's living will.

The Iowa living will (technically known as the *Declaration Relating to Life-Sustaining Procedures*) reads: "If I should have an incurable or irreversible condition that will result either in death within a relatively short period of time or a state of permanent unconsciousness from

which, to a reasonable degree of medical certainty, there can be no recovery, it is my desire that my life not be prolonged by the administration of life-sustaining procedures." According to Iowa law, a "life-sustaining procedure" includes nutrition and hydration when provided intravenously or by feeding tube. In other words, what we are calling "medically assisted nutrition and hydration" (MANH) is included in the scope of Iowa's living will. By signing an Iowa living will, one is directing the withholding or withdrawal of MANH under the conditions described in the living will.

The first clause of Iowa's living will ("If I should have an incurable or irreversible condition that will result... in death within a relatively short period of time... it is my desire that my life not be prolonged by the administration of life-sustaining procedures") is in accord with Church teaching on forgoing MANH. The recently revised directive *58* of the *Ethical and Religious Directives* states: "Medically assisted nutrition and hydration becomes morally optional when they cannot reasonably be expected to prolong life or when they would be 'excessively burdensome for the patient or [would] cause significant physical discomfort, for example resulting from complications in the use of the means employed.' For instance, as a patient draws close to inevitable death from an underlying progressive and fatal condition, certain measures to provide nutrition and hydration may become excessively burdensome and therefore not obligatory in light of their very limited ability to prolong life or provide comfort," (no. 58)

The second clause of the living will ("If I should have ... a state of permanent unconsciousness from which, to a reasonable degree of medical certainty, there can be no recovery, it is my desire that my life not be prolonged by the administration of life-sustaining procedures") can be interpreted as indicating that MANH should be forgone when the permanency of a state of unconsciousness has been medically determined. This is not in accord with Church teaching.

A "state of permanent unconsciousness" most likely refers what is called a "persistent vegetative state" or alternately a "permanent vegetative state." The revised directive 58 of the *Ethical and Religious Directives* states: In principle, there is an obligation to provide patients with food and water, including medically assisted nutrition and hydration for those who cannot take food orally. This obligation extends to patients in chronic and presumably irreversible conditions (e.g., the 'persistent vegetative state') who can reasonably be expected to live indefinitely if given such care. Medically assisted nutrition and hydration becomes morally optional when they cannot reasonably be expected to prolong life or when they would be 'excessively burdensome for the patient or [would] cause significant physical discomfort, for example resulting from complications in the use of the means employed." *According to Church teaching, certain conditions must be satisfied before the withdrawal of MANH can be considered morally permissible from someone in a chronic condition, such as the prolonged unconsciousness of a persistent/permanent vegetative state. This contrasts with the unqualified forgoing of MANH for such patients specified in Iowa's living will.*

A persistent/permanent vegetative state is very rare. It is highly unlikely that you or anyone you know will ever be in this condition. However, as a matter of respect for Church teaching, Catholics signing an Iowa living will should amend it through addition of the following statement: **If I should be in a state of permanent unconsciousness from which, to a reasonable degree of medical certainty, there can be no recovery, it is my desire that**

medically assisted nutrition and hydration not be administered only if this procedure cannot reasonably be expected to prolong my life or would be excessively burdensome for me or cause me significant physical discomfort.

The archdiocesan Medical-Moral Commission has developed a modification of the Iowa State Bar Association's form for a living will which includes this addition concerning medically assisted nutrition and hydration. A copy is included in this packet. Those choosing to use the regular living will form developed by the Iowa State Bar Association should include this statement as an addendum.

Durable Power of Attorney for Health Care

Iowa's form for a durable power of attorney for health care provides the option of writing in specific instructions or statements of desires for treatments that are or are not wanted. The archdiocesan Medical-Moral Commission has developed a document *Specific Directives for Health Care Decisions* that *sets out choices which are specifically formulated to reflect Catholic moral teaching on using/forgoing life-sustaining treatments and on pain management.* A copy is included in this packet. This document may be completed and attached to the Durable Power of Attorney for Health Care form, or it may serve as a model for completing other such forms.

Authorization for Release of Protected Health Information to Nominated Health Care Attorney in Fact

This document from the Iowa State Bar Association is included for the sake of compliance with federal HIPAA regulations regarding privacy of an individual's health information. It should be attached to a durable power of attorney for health care form.

Addendum for Women of Childbearing Age

Cases have occurred in which a pregnant woman has suffered brain death, and the question has arisen of whether to provide medical support to the woman's body to try to bring the fetus to birth. Iowa's advance directives do not explicitly address this kind of situation. Thus we have formulated directives, guided by Catholic moral principles, which may be used by women of childbearing age. For background information on this issue, see the entry *Somatic Support for Brain-Dead Pregnant Women.*