

# Bill as Introduced

SB 170 - AS AMENDED BY THE SENATE

03/21/13 0852s

2013 SESSION

13-0865

01/09

SENATE BILL **170**

AN ACT relative to advance directives pertaining to life-sustaining treatment.

SPONSORS: Sen. Gilmour, Dist 12; Sen. Lasky, Dist 13; Rep. Harding, Graf 13; Rep. Weber, Ches 1; Rep. Watrous, Merr 16

COMMITTEE: Health, Education and Human Services

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ANALYSIS

This bill clarifies the definition of life-sustaining treatment to include medically administered nutrition and hydration for purposes of an advance directive.

.....

Explanation: Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears [~~in brackets and struck through~~].  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Thirteen*

AN ACT relative to advance directives pertaining to life-sustaining treatment.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 Advance Directives; Definition. Amend RSA 137-J:2, XIII to read as follows:

2 XIII. "Life-sustaining treatment" means any medical procedures or interventions which utilize  
3 mechanical or other medically administered means to sustain, restore, or supplant a vital function  
4 which, in the written judgment of the attending physician or APRN, would serve only to artificially  
5 postpone the moment of death, and where the person is near death or is permanently unconscious.  
6 "Life-sustaining treatment" includes, but is not limited to, the following: *medically administered*  
7 *nutrition and hydration*, mechanical respiration, kidney dialysis, or the use of other external  
8 mechanical or technological devices. Life sustaining treatment may include drugs to maintain blood  
9 pressure, blood transfusions, and antibiotics. "Life-sustaining treatment" shall not include the  
10 administration of medication, natural ingestion of food or fluids by eating and drinking, or the  
11 performance of any medical procedure deemed necessary to provide comfort or to alleviate pain.

12 2 Durable Power of Attorney and Living Will; Form. Amend RSA 137-J:20 to read as follows:

13 137-J:20 Advance Directive; Durable Power of Attorney and Living Will; Form. An advance  
14 directive in its individual "Durable Power of Attorney for Health Care"; and "Living Will";  
15 components shall be in substantially the following form:

16 NEW HAMPSHIRE ADVANCE DIRECTIVE

17 NOTE: This form has two sections.

18 You may complete both sections, or only one section.

19 I. DURABLE POWER OF ATTORNEY FOR HEALTH CARE

20 I, \_\_\_\_\_, hereby appoint \_\_\_\_\_ of \_\_\_\_\_ (Please choose only one person. If you  
21 choose more than one agent, they will have authority in priority of the order their names are listed,  
22 unless you indicate another form of decision making.) as my agent to make any and all health care  
23 decisions for me, except to the extent I state otherwise in this directive or as prohibited by law. This  
24 durable power of attorney for health care shall take effect in the event I lack the capacity to make my  
25 own health care decisions.

26 In the event the person I appoint above is unable, unwilling or unavailable, or ineligible to act as  
27 my health care agent, I hereby appoint \_\_\_\_\_ of \_\_\_\_\_ as alternate agent. (Please choose  
28 only one person. If you choose more than one alternate agent, they will have authority in priority of  
29 the order their names are listed.)

30 STATEMENT OF DESIRES, SPECIAL PROVISIONS, AND LIMITATIONS REGARDING

1 HEALTH CARE DECISIONS.

2 For your convenience in expressing your wishes, some general statements concerning the  
3 withholding or removal of life-sustaining treatment are set forth below. (Life-sustaining treatment  
4 is defined as procedures without which a person would die, such as but not limited to the following:  
5 mechanical respiration, kidney dialysis or the use of other external mechanical and technological  
6 devices, drugs to maintain blood pressure, blood transfusions, and antibiotics.) There is also a  
7 section which allows you to set forth specific directions for these or other matters. If you wish, you  
8 may indicate your agreement or disagreement with any of the following statements and give your  
9 agent power to act in those specific circumstances.

10 A. LIFE-SUSTAINING TREATMENT.

11 1. If I am near death and lack the capacity to make health care decisions, I authorize my agent  
12 to direct that:

13 (Initial beside your choice of (a) or (b).)

14 \_\_\_(a) life-sustaining treatment not be started, or if started, be discontinued.

15 -or-

16 \_\_\_(b) life-sustaining treatment continue to be given to me.

17 2. Whether near death or not, if I become permanently unconscious and life-sustaining treatment  
18 has no reasonable hope of benefit, I authorize my agent to direct that:

19 (Initial beside your choice of (a) or (b).)

20 \_\_\_a) life-sustaining treatment not be started, or if started, be discontinued.

21 -or-

22 \_\_\_(b) life-sustaining treatment continue to be given to me.

23 B. ~~[MEDICALLY ADMINISTERED NUTRITION AND HYDRATION.~~

24 ~~1. I realize that situations could arise in which the only way to allow me to die would be to not~~  
25 ~~start or to discontinue medically administered nutrition and hydration. In carrying out any~~  
26 ~~instructions I have given in this document, I authorize my agent to direct that:~~

27 ~~(Initial beside your choice of (a) or (b).)~~

28 ~~\_\_\_(a) medically administered nutrition and hydration not be started or, if started, be~~  
29 ~~discontinued.~~

30 -or-

31 ~~\_\_\_(b) even if all other forms of life sustaining treatment have been withdrawn, medically~~  
32 ~~administered nutrition and hydration continue to be given to me.~~

33 ~~(If you fail to complete item B, your agent will not have the power to direct the withholding or~~  
34 ~~withdrawal of medically administered nutrition and hydration.)~~

35 C.] ADDITIONAL INSTRUCTIONS.

36 Here you may include any specific desires or limitations you deem appropriate, such as when or

1 what life-sustaining treatment you would want used or withheld, or instructions about refusing any  
2 specific types of treatment that are inconsistent with your religious beliefs or are unacceptable to you  
3 for any other reason. You may leave this question blank if you desire.

4 \_\_\_\_\_  
5 (attach additional pages as necessary)

6 I hereby acknowledge that I have been provided with a disclosure statement explaining the effect  
7 of this directive. I have read and understand the information contained in the disclosure statement.

8 The original of this directive will be kept at \_\_\_\_\_ and the following persons and institutions  
9 will have signed copies:

10 Signed this \_\_\_ day of \_\_\_\_\_, 20\_\_

11 Principal's Signature: \_\_\_\_\_

12 [If you are physically unable to sign, this directive may be signed by someone else writing your  
13 name, in your presence and at your express direction.]

14 THIS POWER OF ATTORNEY DIRECTIVE MUST BE SIGNED BY TWO WITNESSES OR A  
15 NOTARY PUBLIC OR A JUSTICE OF THE PEACE.

16 We declare that the principal appears to be of sound mind and free from duress at the time the  
17 durable power of attorney for health care is signed and that the principal affirms that he or she is  
18 aware of the nature of the directive and is signing it freely and voluntarily.

19 Witness: \_\_\_\_\_ Address: \_\_\_\_\_

20 Witness: \_\_\_\_\_ Address: \_\_\_\_\_

21 STATE OF NEW HAMPSHIRE

22 COUNTY OF \_\_\_\_\_

23 The foregoing durable power of attorney for health care was acknowledged before me this \_\_\_ day  
24 of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_ ("the Principal"). \_\_\_\_\_

25 Notary Public/Justice of the Peace

26 My commission expires:

27 II. LIVING WILL

28 Declaration made this \_\_\_ day of \_\_\_\_\_, 20\_\_.

29 I, \_\_\_\_\_, being of sound mind, willfully and voluntarily make known my desire that my  
30 dying shall not be artificially prolonged under the circumstances set forth below, do hereby declare:

31 If at any time I should have an incurable injury, disease, or illness and I am certified to be near  
32 death or in a permanently unconscious condition by 2 physicians or a physician and an APRN, and 2  
33 physicians or a physician and an APRN have determined that my death is imminent whether or not  
34 life-sustaining treatment is utilized and where the application of life-sustaining treatment would  
35 serve only to artificially prolong the dying process, or that I will remain in a permanently  
36 unconscious condition, I direct that such procedures be withheld or withdrawn, and that I be  
37 permitted to die naturally with only the administration of medication, the natural ingestion of food

SB 170 - AS AMENDED BY THE SENATE

- Page 4 -

1 or fluids by eating and drinking, or the performance of any medical procedure deemed necessary to  
2 provide me with comfort care. I realize that situations could arise in which the only way to allow me  
3 to die would be to discontinue medically administered nutrition and hydration.

4 *(Initial below if it is your choice)*

5 In carrying out any instruction I have given under this section, I authorize that[:

6 ~~(Initial beside your choice of (a) or (b).)~~

7 ~~\_\_\_(a) medically administered nutrition and hydration not be started or, if started, be~~  
8 ~~discontinued,~~

9 ~~-or-~~

10 ~~\_\_\_(b)]~~ even if all other forms of life-sustaining treatment have been withdrawn, medically  
11 administered nutrition and hydration continue to be given to me. \_\_\_\_\_

12 In the absence of my ability to give directions regarding the use of such life-sustaining treatment,  
13 it is my intention that this declaration shall be honored by my family and health care providers as  
14 the final expression of my right to refuse medical or surgical treatment and accept the consequences  
15 of such refusal.

16 I understand the full import of this declaration, and I am emotionally and mentally competent to  
17 make this declaration.

18 Signed this \_\_\_ day of \_\_\_\_\_, 2\_\_\_.

19 Principal's Signature: \_\_\_\_\_

20 [If you are physically unable to sign, this directive may be signed by someone else writing your  
21 name, in your presence and at your express direction.]

22 THIS LIVING WILL DIRECTIVE MUST BE SIGNED BY TWO WITNESSES OR A NOTARY  
23 PUBLIC OR A JUSTICE OF THE PEACE.

24 We declare that the principal appears to be of sound mind and free from duress at the time the  
25 living will is signed and that the principal affirms that he or she is aware of the nature of the  
26 directive and is signing it freely and voluntarily.

27 Witness: \_\_\_\_\_ Address: \_\_\_\_\_

28 Witness: \_\_\_\_\_ Address: \_\_\_\_\_

29 STATE OF NEW HAMPSHIRE

30 COUNTY OF \_\_\_\_\_

31 The foregoing living will was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by  
32 \_\_\_\_\_ (the "Principal"). \_\_\_\_\_

33 Notary Public/Justice of the Peace

34 My commission expires:

35 3 Repeal. RSA 137-J:13, III, relative to medically administered nutrition and hydration, is  
36 repealed.

37 4 Effective Date. This act shall take effect January 1, 2014.

# Amendments

Rep. Meaney, Hills. 6  
April 17, 2013  
2013-1303h  
01/09

Amendment to SB 170

1 Amend RSA 137-J:20(B) by replacing the first sentence following the phrase ADDITIONAL  
2 INSTRUCTIONS with the following:

3

4 Here you may include any specific desires or limitations you deem appropriate, such as your  
5 preferences concerning medically administered nutrition and hydration, when or what life-  
6 sustaining treatment you would want used or withheld, or instructions about refusing any specific  
7 types of treatment that are inconsistent with your religious beliefs or are unacceptable to you for any  
8 other reason.



# Speakers

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# Hearing Minutes

**HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS**

**PUBLIC HEARING ON SB 170**

**BILL TITLE:** relative to advance directives pertaining to life-sustaining treatment.

**DATE:** April 16, 2013

**LOB ROOM:** 205      **Time Public Hearing Called to Order:** 10:00 a.m.

**Time Adjourned:** ?

(please circle if present)

**Committee Members:** Reps. J. MacKay, Harding, French, J. Tilton, Sherman, Andrews-Ahern, Helmstetter, Picehurse, Jane Hunt, M. MacKay, DiMartino, McMahon, B. Nelson, S. Schmidt, Emerson, Meane, Lebrun, Culbert, Martel and Kotowski.

**Bill Sponsors:** Sen. Gilmour, Dist 12; Sen. Lasaky, Dist 13; Rep. Harding, Graf 13; Rep. Weber, Ches 1; Rep. Watrous, Merr 16

**TESTIMONY**

\* Use asterisk if written testimony and/or amendments are submitted.

**Sen. Gilmour - Prime sponsor - Supports SB 170. This bill will clarify the definition of life- sustaining treatment.**

**Rep. Lenette Peterson - Opposes SB 170.**

**Shawn Lafrance from N. H. Healthcare Decisions Coalition. He supports SB 170. This bill does not take away anyone's rights. They did a survey on this - results showed everyone was confused with the Advanced Care Planning document. SB 170 is responding to this confusion. He brought a copy of the Advance Care Planning Guide.**

**\*Rev. Randy Dales representing Episcopal Diocese of New Hampshire - Supports SB 170.**

**\*Margaret Drye - Opposes SB 170.**

**\*Janice McDermott from NH Hospice and Palliative Care - Supports SB 170.**

**Monica Viel Weiss from Wentworth Douglass Hospital - Is a social worker there. She supports SB 170.**

**\*Andrea R. Huertas - Supports SB 170. It will make it easier for patients and families to understand the choices they have related to end of life care.**

**Madeline E. Gerhan, MD from NHHPCO - Supports SB 170.**

**Respectfully Submitted:**



**Rep. Lisa DiMartino, Clerk**

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

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**Bill Sponsors:** Sen. Gilmour, Dist 12; Sen. Lasaky, Dist 13; Rep. Harding, Graf 13; Rep. Weber, Ches 1; Rep. Watrous, Merr 16

TESTIMONY

\* Use asterisk if written testimony and/or amendments are submitted.

- \* Sen Gilmour prime sponsor - supports SB170  
This bill will clarify the definition of life-sustaining treatment.
- Rep Dorette Peterson opposes SB170  
Shaun Zafra<sup>from</sup> - NH Healthcare decisions Coalition - He supports SB170 -  
This bill does not take away anyone rights. My did a survey on this - results showed everyone was confused with the ~~&~~ advance Care Planning document. SB170 is responding to this confusion. He brought a copy of the Advance Care Planning Guide.
- \* Rev. Randy Dalis supports SB170
- \* Margaret Dye opposes SB170

\* Janice McDermott from NH Hospice  
& Palliative Care. support SB170

Ronca Vel - Weiss from Wentworth  
Douglas Hospital, is a social  
work, there. She supports SB170

\* Andria R Nuntas support SB170  
it will make it easier for patients &  
families to understand the choices  
they have related to end of life  
care.

Madeline E Gerhan MD from NH HPCO  
Support SB170

# Testimony

House Health, Human Services, and Elderly Affairs Committee

Testimony on SB170

April 16, 2013

Thank you Mr. Chairman and members of the committee. For the record, I am Senator Peggy Gilmour, representing Senate District 12, 3 wards in Nashua, and the towns of Hollis, Brookline, Mason, Greenville, New Ipswich, and Rindge.

I am here to ask your support for SB 170, which will clarify the definition of "life sustaining treatment" and take some of the confusion out of NH's "legalize" sounding Advance Directive law.

I have spent most of my career working with the elderly and those preparing for life's end. One of the most important ways we as humans can chart our own course is to be clear about what we want at the end of our life in the event we are unable to speak for ourselves. And, one of the best gifts we can give our families is to have that conversation with them, and complete our legal Advance Directives...i.e. the documents that say "I am directing, in advance, my wishes." Most base those wishes on life experience, their own and their families' value system, their faith. And, coincidentally...or not perhaps...today is National Health Care Decisions Day, The Foundation for Healthy Communities has brought several copies of Advance Care Planning Guide for any here who have not completed their own Advance Directives.

Our NH Statute has been cumbersome, in that we require the declaration of our wishes for Life Sustaining Treatment in two different sections. We must indicate our wishes around Medically Administered Nutrition and Hydration... for example being fed by a tube into our stomach if we are unconscious...separately from other forms of "Life Sustaining Treatment" such as a ventilator or mechanical respiration, kidney dialysis etc. that can artificially postpone death. This separation increases the complexity of the decision-making process for people who want to forego invasive treatments when there is no hope of benefit.

This separate section for Medically Administered Nutrition & Hydration is described as confusing by those completing the NH Advance Directive and among health professionals/others who help guide people in the advance directive process. It has particularly created confusion for those relocating to NH or those "snow birds" who believe they have been compliant in creating their documents, and find that in NH they are bound to "recomplete" this separate section.

This proposed change will still allow anyone to indicate their wishes around nutrition and/or hydration, and to restrict the authority of their Durable Power of Attorney for Health Care



...that person authorized to speak for them...regarding decisions related to instituting, withholding or withdrawing Medically Administered Nutrition & Hydration.

Talking about our own death, or with family members about theirs, is very difficult for most Americans. In fact, a study by the National Hospice and Palliative Care Organization showed that Americans would rather talk to their children about sex and drugs than talk with their aging parents about death! Our job is to help people with this, to make a process that promotes advance planning for what each of us will encounter...our death. SB 170 does not make this human task easy....but it makes the process simpler, clears up confusion, and still offers the individual to make their end of life wishes known.

I am happy to answer any questions, but there are others behind me who currently work in the field, and who will be happy to tell you how SB170 will help.

The Rev. Canon Randolph K. Dales  
Post Office Box 1363, Wolfeboro, New Hampshire 03894  
[rdales@metrocast.net](mailto:rdales@metrocast.net)

16 April 2013

Testimony on Senate Bill 170

My name is the Rev. Canon Randy Dales, and I am the Bishop's Chaplain to the Retired Episcopal Clergy in New Hampshire. I have served as an Episcopal priest in this state for forty three years since coming here in 1969. I recently retired after 34 years as the Rector of All Saints Church, Wolfeboro.

An often quoted scripture at used at funerals comes from the Hebrew Book of Ecclesiastes: *"To everything there is a season, and a time for every purpose under heaven: a time to be born, and a time to die."* To all of us will come a time to die, and all of us hope – for ourselves and for our loved ones – a peaceful and pain-free death.

To this end, states have enacted provisions that allow people to indicate the manner of care they wish to receive during their last days. Living Wills and Advanced Directives spell out what medical procedures individuals want provided or withheld.

Churches have strongly supported such directives. The General Convention of the Episcopal Church recognized and approved Living Wills back in 1982, and again in 1991 reaffirmed them, urging physicians, families and patients "to show aggressive commitment to the concept of allowing peaceful death in a setting that enables the patient to maintain control and dignity, free from intrusion of unwanted and inappropriate technology." It is that last line, *free from intrusion of unwanted and inappropriate technology*, that SB170 addresses.

Some thirty years ago in 1981, I co-founded Hospice of Southern Carroll County, only the second hospice in the state at that time. Working in my parish and with that organization, I have frequently tried to help individuals and their families to understand Living Wills and Advance Directives. However, these forms can be overly complicated and confusing.

SB170 removes the most confusing parts of these directives. Under this bill, the normal provision of food and drink to the dying would not be prohibited; however medically administered nutrition and hydration are life-prolonging measures that can lead to increased pain and suffering as one's bodily functions begin to shut down. The proposed change to Advanced Directives will clearly identify these two artificial procedures as "life sustaining treatments" similar to mechanical respiration.

Completing Advanced Directives and designating a Durable Power of Attorney for Health Care are ways that individuals can spare their families difficult decisions at a time of great emotional distress. In my own family, when my father-in-law suffered a massive cerebral hemorrhage, I discovered how hard it is at that moment for many people to fully understand the end of life choices. Fortunately, he had made his choices clear in advance, had rejected any artificial intrusions, and made his will known to his daughter, his Durable Power of Attorney.

Based on my experience as a parish priest, and in keeping with the stated position of the Episcopal Church, I would encourage you to make these very simple, but significant changes, and to simplify the definition of "Life Sustaining Treatment to include "Medically Administered Nutrition and Hydration."

Thank you.

file copy SB170

Margaret Drye  
PO Box 3  
Plainfield, NH 03781  
603-675-9159  
April 16, 2013

House Health, Human Services,  
& Elderly Affairs Committee  
LOB Room 205  
Concord, NH 03301

Re: SB170

To the Members of the Committee:

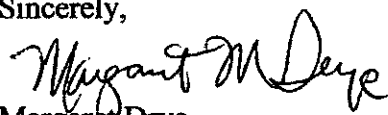
In the course of dying, it is common for patients to stop eating and drinking and just let "nature take its course." A dying patient's advance directives can reflect their desire not to interrupt this very natural path.

We should tread with caution, though, when we try to apply the same course to those classified as "permanently unconscious." Before we make the sea-change of re-defining what is normally thought of as palliative care – food and hydration, however administered – to "life-sustaining treatment" that can be withheld, we should consider the following:

- 1) "Permanently unconscious" is not a medical term. It is not found in any medical textbook. Diagnosing it is difficult. There are conditions that mimic a chronic vegetative state – akinetic mutism, apallic state, a locked-in syndrome, and psychogenic coma, to name a few. Recovery happens in some cases. How long do we wait? If we err, let us do so on the side of life.
- 2) In the amendment's phrasing of "whether near death or not," what exactly does "no reasonable hope of benefit" mean if such a patient is not near death?
- 3) A patient can live without mechanical respiration. Nancy Cruzan did. Terry Schiavo did. No patient survives when food and hydration is not administered.

I come here today to give you pause. Before you make the great philosophical switch from having a patient expect food and hydration as part of care to requiring a patient to request it specifically, consider that if the problem with our current directives is confusion over one question, perhaps the onus is on us to re-phrase the question and explain it better.

Sincerely,

  
Margaret Drye



125 Airport Road Concord NH 03301

603 415 4298 /www.nhhpc.org

**Testimony in support of SB 170**  
**"AN ACT relative to advance directives pertaining to life-sustaining treatment"**

**April 16, 2013**

**Presented by Janice McDermott, Executive Director, N.H. Hospice & Palliative Care Org.**

On behalf of New Hampshire Hospice and Palliative Care Organization (NHHPCO), a non-profit, 501© (3) charitable organization which represents residents of New Hampshire living with life limiting illness, as well as providers of hospice and palliative care services.

NHHPCO promotes access to quality palliative care and hospice services to meet the unique healthcare needs of each individual needing care in a manner that is consistent with a patient and family's wishes. We participate on the NH Healthcare Decisions Coalition because of these shared values. It is through the Coalition meetings which include representatives of many healthcare settings that this legislation was requested.

SB 170 is asking to amend the current state statute, chapter 137 – J, addressing "Written Directives for Medical Decision Making..." in an effort to simplify the definition of "Life Sustaining Treatment" to include Medically Administered Nutrition & Hydration.

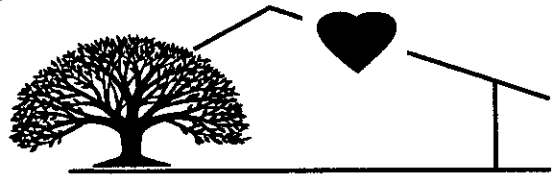
We urge you to support the amendment for the following reasons:

- The current statute separates *Medically Administered Nutrition & Hydration* from other forms of "Life Sustaining Treatment" (e.g., ventilator or mechanical respiration, kidney dialysis, etc.) that can artificially postpone death when a patient is near death. This paperwork mandate increases the complexity of the decision-making process for people who want to avoid burdensome treatments that have no hope of benefit.
- There is significant confusion reported by people who have completed the NH Advance Directive about this separate section for *Medically Administered Nutrition & Hydration*. Health professionals and others who help guide people in the advance directive process have shared the need for reducing the burden of our complicated forms.
- This proposed change will still allow anyone to restrict the authority of their Durable Power of Attorney for Health Care regarding decisions related to withholding or withdrawing *Medically Administered Nutrition & Hydration*.

In summary, we believe that passing this legislation will go a long way to help residents of New Hampshire be able to more easily put Advanced Directive documents in place that can be legally honored if needed and reduce the burden of difficult decision making at a time of crisis for family members or designated decision makers.

Thank you for the opportunity to comment on this legislation.

file copy - SB 170



Central New Hampshire  
VNA & Hospice

April 15, 2013

Andréa R Huertas, RN, BSN, CHPN, MBA  
Hospice Director  
Central New Hampshire VNA & Hospice  
780 N Main St  
Laconia, NH 03246  
603-524-4339 ext. 2323  
[AHuertas@centralvna.org](mailto:AHuertas@centralvna.org)

RE: Testimony in support of SB 170

I have been a hospice provider for the past ten years here in New Hampshire and am an active member of the NH Healthcare Decisions Coalition. The dedicated work of this group along with many other healthcare supporters is where the legislation for change to SB 170 originated.

The proposed changes to SB 170 will make it easier for patients and families to understand the choices they have related to end of life care. Our current forms are complicated, to the point that even healthcare providers question what this means. I believe that by removing the sections related to *Medically Administer Nutrition and Hydration* will eliminate this confusion.

Thank you for this opportunity to comment in support of SB 170

*Andréa R Huertas*

---

Corporate Office  
780 N Main Street  
Laconia, NH 03246  
Tel: 603-524-8444 / 800-244-8549  
Fax: 603-524-8217

Wolfeboro Branch  
240 S Main Street  
PO Box 1620  
Wolfeboro, NH 03894  
Tel: 603-569-2729 / 888-242-0655  
Fax: 603-569-2409

# Advance Care Planning Guide

A process to think about, talk about and plan for  
life-threatening illness or end-of-life care



*New Hampshire Advance Directives:*

Durable Power of Attorney for  
Health Care (DPOAH)

Living Will



FOUNDATION FOR  
HEALTHY COMMUNITIES

[www.healthynh.com](http://www.healthynh.com)

## Why Advance Care Planning?

**M**aking decisions about medical care is not always easy – especially now that machines can keep patients alive even when there is no hope for recovery. **It's your right to participate and plan for your care.** But at some point, you may become unable to make your own health care decisions. That's why it's important to think and talk about your feelings and beliefs with your loved ones – long before critical medical decisions must be made.

This guide provides you with information about creating an "advance directive" – a legal document that states your preferences about medical care. Please read it carefully and discuss it with your family, doctor, nurse practitioner, patient representative, chaplain or other caregiver.

You don't need to have an advance directive document if you don't want one. No hospital, nursing home, doctor, nurse or insurance company can require you to have an advance directive document to provide you with services. However, it's a good idea to have an advance directive document in place if you want your family and health care providers to understand and follow your wishes about your medical care. It will also make it better for your family should you become unable to participate in decisions about your care. They will not have to guess about your choices, uncertain of what you would want them to do. And, if family members or your health care providers disagree about what is right for you, an advance directive document can help you avoid having decisions made by the probate court.

NOTE: The first use of terms you may not understand have been indicated in italics and defined in the "Definitions" section at the end of this booklet.

Please note that these forms are not the same as NH statutes. You can obtain the statutory forms from NH Revised Statutes Annotated 137-J. The enclosed forms are substantially similar to NH statutes but written in simpler language. This guide was prepared based on New Hampshire law as it existed in January 2007 and printed to inform, not to advise. This is not intended to be a substitute for legal, medical, or other professional advice. Consult a trained expert for interpretation and application of current New Hampshire law. You may republish or cite any portion of this work, with the following attribution: "Reprinted by permission from the Foundation for Healthy Communities copyright © 2010. All rights reserved." These materials may not be reproduced for resale.

Your thoughts or answers to these questions can help provide you and your caregivers with peace of mind.

#### VALUES

- What gives your life its purpose and meaning?
- What do you value most about your physical or mental well being? For example, do you love the outdoors? To read or listen to music? To be aware of who is with you?

#### FAMILY/FRIEND RELATIONSHIPS

- Who among your family and friends are important in your life?
- Have you talked about your medical care choices with your loved ones and with those who will be around you when problems arise or death comes close?

#### SPIRITUAL/RELIGIOUS BELIEFS

- How would you describe your spiritual or religious life?
- How does your faith community, church or synagogue support you?
- Do you have religious beliefs about medical treatment?

#### MEDICAL

- Have you talked with your doctor or health provider about your health concerns and medical treatment questions?
- Under what conditions would you want the goals of medical treatment to change from trying to continue your life to focusing on your comfort?
- Would you want a *hospice* team or other form of *palliative care* offered to you?
- How does cost influence your decisions about medical care?
- How do you feel about *life-sustaining treatment*, such as kidney dialysis? Do you want *CPR* used to try to revive you if your heart stops or you stop breathing?

#### MAKING PLANS

- If you could plan it today, what would the last day or week of your life be like? Where would you be? Who would be with you?
- What will be important to you when you are dying (comfort, no pain, family present, music, prayer, being touched or held, etc.)?
- What general comments would you like to make about dying or death?
- Are you interested in *organ or tissue donation*?
- Are there people to whom you want to write a letter, or for whom you want to prepare a taped message, perhaps marked to be opened at a future time?
- What are your wishes for a memorial service: songs or readings you want, or people you hope will participate?
- Would you prefer to be buried or cremated, or do you have no preference? Have you contacted a funeral home?



## Questions about advance directives

### What are advance directives?

Advance directives are instructions you give regarding your future care. They may be oral or written. They may have been shared with family, friends, or medical providers. Family, friends and medical providers attempt to understand and fulfill your instructions, no matter what form they are in. However, to ensure that everyone understands your instructions, the State of New Hampshire recognizes a written advance directive as a legal document with two parts: a Durable Power of Attorney for Health Care and a Living Will.

### What is a Durable Power of Attorney for Health Care (DPOAH)?

A Durable Power of Attorney for Health Care is a part of the advance directive document in which you name another person to act as your *health care agent* to make medical decisions for you if you lack capacity to make health care decisions. It can apply in many different health treatment situations. You can include instructions about which treatments you do or do not want, or how long you want to try possible treatments. If you do not want *medically administered feeding or hydration*, New Hampshire law requires that you say so in your document.

### What is a Living Will?

A Living Will is a legal document that instructs your health care provider to give no life-sustaining treatment if you are *near death* or are *permanently unconscious*, without the hope of recovery. It does not require identifying a person to make any decision but it applies in very limited situations. If you do not want medically administered feeding or hydration, New Hampshire law requires that you say so in your document.

### Do I need both a Durable Power of Attorney for Health Care (DPOAH) and a Living Will?

It is a good idea to complete both parts of the advance directive document because they serve two different purposes. A DPOAH takes effect whenever you become unable to make decisions – for instance, during surgery, or even when you become temporarily unconscious. A Living Will takes effect only when there is no hope for recovery. Under New Hampshire law, if the terms of your advance directive conflict, the DPOAH will overrule the Living Will.

### What is the difference between a DNR order and an advance directive?

In the event that your heart stops beating and you stop breathing, health care provider will normally perform *cardiopulmonary resuscitation (CPR)* to try to restart your breathing and heartbeat. However, you may decide that you do not want CPR performed. In this case, you may ask for a Do Not Attempt Resuscitation (DNR) order to be written. The differences between a DNR and an advance directive include: an advance directive is not a medical order, even though it is a legally recognized document; a DNR order is a medical order; a DNR order applies only if your heart stops beating and you stop breathing, while an advanced directive deals with many other medical issues and decisions, such as whether to provide medically assisted feeding or hydration. You may want to include your wishes about DNR orders in your advance directive, in the event that you are not able to make your preference known in the future.

### Why would I want a DNR order?

There is an attempt to provide everyone with CPR unless they indicate otherwise. An attempt at

CPR may be successful but it may cause harm and suffering when someone is very frail or has a serious illness even if successful. Talking with your doctor or other health providers can help you understand the potential benefits and burdens of CPR and whether a DNR is your preferred choice. A DNR only refers to CPR and does not mean that all other treatments (e.g., pain relief, comfort care, etc.) are stopped.

**What if I want more than one person to make my health care decisions?**

Many people want to designate more than one person to be their health care agent. For example, a person may want all three of their children to be responsible for their medical decisions. If you list more than one person as your health care agent, it is important to know that the first person listed will be your decision-maker, followed by the next person listed, and so on. If you desire a different decision-making process (such as making sure all of your agents agree before a decision is made), you must make this clear in your advance directive.

**How is it determined whether I am unable to make decisions about my medical care?**

If the doctor or advanced registered nurse practitioner responsible for your care determines that you are unable to understand the significant risks and benefits of your health care decisions, they can document that you do not have "capacity", in which case your health care agent, if you have designated one, will make decisions for you. This is not a permanent designation; if your doctor or ARNP later determines that you have regained capacity, you will be able to make your own health care decisions once again. If, when you do not have capacity to make medical decisions, you want the decisions of your health care agent to be followed even if you object to them, you must make that clear in your advance directive.

**What doesn't the advance directive accomplish?**

An advance directive is a guide that only covers certain important health care issues. Your wishes expressed in an advanced directive will need to be put into medical orders once you are determined to lack the capacity to make your own health decisions. An advanced directive does not provide for other important personal planning or financial matters. A "Durable General Power of Attorney" is recommended for financial matters or other personal planning. You should discuss this and other non-health related issues with an attorney. It does not establish guardianship.

**Are my old advance directive documents still valid?**

Yes. An advance directive does not need to be renewed. However, if you want to change something in your advance directive document, you must complete a new one. You might want to re-examine your health care wishes from time to time. New Hampshire's Advance Directive law changed on January 1, 2007. However, if you have an advance directive document that was created before this date, it will still be honored under New Hampshire law.

**Can I revoke my advance directive document?**

You can revoke or cancel your advance directive document orally or in writing at any time. A separation, divorce, or marriage annulment action will automatically revoke your DPOAH if your spouse or partner is your health care agent and you have not named an alternate in your document. Additionally, if a protective order is filed between you and your health care agent, your DPOAH will also be automatically revoked if you have not named an alternate agent.

### **What if my advance directive document was *executed* in another state?**

Your out-of-state advance directive is valid in New Hampshire as long as it was legally executed in the other state and conforms to New Hampshire law. Most other states do not require you to explicitly authorize your agent to be able to direct to withhold or withdraw medically administered hydration and nutrition. You must explicitly give this power to your agent in New Hampshire or they will not have it.

### **Who should have copies of my advance directive document?**

Copies of your documents should be with your doctor, your hospital, the person you select as your health care agent or long-term care facility and family. Ideally the original documents should be stored where you keep your other important legal papers such as wills, birth certificates and social security cards.

### **How will my health care providers know I have an advance directive?**

You should tell your doctor, nurses or other health care providers that you have an advance directive and provide them with a copy for your medical record. Any time you are admitted to a hospital, you will be asked if you have an advance directive. If you know that you will be admitted to a hospital, you should bring a copy of your document with you.

### **Do I need an attorney?**

You do not need an attorney to create an advance directive document. You can simply use the form in this brochure, which is printed substantially similar to New Hampshire laws. However, if you have any questions or special concerns, you can talk with an attorney, doctor or trained staff from a hospital or hospice. You can get the statutory forms from NH Revised Annotated Statutes 137-J.



### **Who can witness the signing of my advance directive document?**

In order to be valid, your advance directive document can be signed either in the presence of two witnesses or a notary. Your health care agent named in your DPOAH, spouse, heir, *attending doctor or advanced registered nurse practitioner*, or person supervised by your doctor may not serve as a witness. Only one of the two witnesses may be your health or residential care provider or one of your provider's employees.

### **Why would I want to allow my health care agent to make decisions over my objections?**

A DPOAH allows your health care agent to make decisions if you are unconscious or unable to communicate your wishes. A DPOAH may also be used to allow your agent to make decisions for you even if you are conscious and able to communicate but do not have capacity to make health decisions due to a condition that affects your cognitive or intellectual functioning, such as Alzheimer's disease or dementia. When you sign your advance directive, you must decide whether or not to give up your right to object to your agent's decision about treatments. If you do not give up this right, treatment cannot be given or withheld over your objection. However you decide to answer the treatment against objection option, you can still change or cancel your DPOAH at any time by deciding you want to change your choice of a health care agent.



*It's your right  
to participate and plan for your care.*

## Selecting Your Durable Power of Attorney for Health Care or Health Care Agent

When you decide to pick someone to speak for you in a medical crisis, in case you are not able to speak for yourself, there are several things to think about. The chart below is a tool to help you decide who the best person is. **Usually it is best to name one person or agent to serve at a time**, with at least one alternate, or back-up person, in case the first person is not available when needed.

Compare up to 3 people with this tool. The person best suited to be your DPOAH or Health Care Agent rates well on these qualifications ...

Name #1:		
		Name #2:
	Name #3:	
		1. Meets the legal criteria in your state for acting as agent or representative? (This is a must! See page 7 – Disclosure.)
		2. Would be willing to speak on your behalf.
		3. Would be able to act on your wishes and separate his or her own feelings from yours.
		4. Lives close by or could travel to be at your side if needed.
		5. Knows you well and understands what's important to you.
		6. Could handle the responsibility.
		7. Will talk with you now about sensitive issues and will listen to your wishes.
		8. Will likely be available long into the future.
		9. Would be able to handle conflicting opinions among family members, friends, and medical personnel.
		10. Can be a strong advocate in the face of an unresponsive doctor or institution.

*This worksheet adapted by the American Bar Association's Commission on Legal Problems of the Elderly from R. Pearlman, et. al., Your Life Your Choices – Planning for Future Medical Decisions: How to Prepare a Personalized Living Will, Veterans Administration Medical Center, Seattle, Washington. Reprinted by permission.*

### What to Do After you Pick a Health Care Agent

- Talk to your agent about the qualifications on this worksheet.
- Ask permission to name him or her as your agent.
- Discuss your health care wishes and values and fears with your agent and doctor or health provider.
- Make sure your agent and your doctor or health provider gets a copy of your advance directive.

“Making Medical Decisions for Someone Else: A New Hampshire Handbook” is a resource available at [www.healthynh.com](http://www.healthynh.com). It may also be available at the care facility where you receive healthcare.

## Durable Power of Attorney for Health Care: Disclosure Statement

**This is an important legal document. Before signing it, you should know these important facts:**

Except if you say otherwise, this document gives the person you name as your health care agent the authority to make any and all health care decisions for you when you lack the capacity to make health care decisions for yourself (in other words, you no longer have the ability to understand and appreciate generally the nature and consequences of a health care decision, including the significant benefits and of and reasonable alternatives to any proposed health care.) "Health care" means any treatment, service or procedure to maintain, diagnose or treat your physical or mental condition.

Your health care agent, therefore, will have the power to make a wide range of health care decisions for you. Your health care agent may consent (in other words, give permission), refuse to consent or withdraw consent to medical treatment, and may make decisions about withdrawing or withholding life-sustaining treatment.



If you want to give your health care agent power to withhold or withdraw medically administered nutrition and hydration, you must say so in your document. Otherwise, your health care agent will not be able to direct that. Under no condition will your health care agent be able to direct the withholding of food and drink that you are able to eat and drink normally.

You may state in this document any treatment you do not want, or treatment you want to be sure you receive. Your health care agent's power will begin when your doctor or nurse practitioner certifies that you lack the capacity to make health care decisions (in other words, that you are not able to make health care decisions). You may attach additional pages to the directive if you need more space to complete your statement.

Your health care agent cannot consent to or direct any of the following: • commitment to a state institution; • sterilization; or • termination of treatment if you are pregnant and if the withdrawal of that treatment is deemed likely to terminate the pregnancy, unless the treatment will be physically harmful to you or prolong severe pain which cannot be alleviated by medication.

If, for moral or religious reasons, you do not want to be treated by a doctor or Advanced Practice Registered Nurse (APRN) or to be examined by a doctor or ARNP to certify that you lack capacity, you must say so in the directive and you must name someone who can certify your lack of capacity. That person cannot be your health care agent or alternate health care agent, or any person ineligible to be your health care agent.

Your health care agent shall be directed by your written instructions in this directive when making decisions on your behalf, and will be further guided by your medical condition or prognosis. Unless you state otherwise in the directive, your health care agent will have the same power to make decisions about your health care as you would have had, if those decisions made by your health care agent are made consistent with state law.

It is important that you discuss this document with your doctor or other health care providers before you sign it, to make sure you understand the nature and range of decisions

which could be made for you by your health care agent. If you do not have a health care provider, you should talk with someone who is knowledgeable about these issues and can answer your questions. Check with your community hospital or hospice for trained staff. You do not need a lawyer's assistance to complete this directive, but if there is anything in this directive you do not understand, you should ask a lawyer to explain it to you.

The person you choose as a health care agent should be someone you know and trust, and he or she must be at least 18 years old. If you choose your health or residential care provider (such as your doctor, ARNP, or an employee of a hospital, nursing home, home health agency or residential care home, other than a relative), that person will have to choose between acting as your health care agent or as your health or residential care provider, because the law does not permit a person to do both at the same time.

You should consider choosing an alternate health care agent in case your health care agent is unwilling, unable, unavailable or not eligible to act as your health care agent. Any alternate health care agent you choose will then have the same authority to make health care decisions for you, if the primary agent cannot serve.

You should tell the person you choose that you want him or her to be your health care agent. You should talk about this directive with your health care agent and your doctor or advanced registered nurse practitioner, and give each one a signed copy. You should write on the directive itself the people and institutions who will have signed copies. Your health care agent will not be liable for health care decisions made in good faith on your behalf.

Even after you have signed this directive, you have the right to make health care decisions for yourself as long as you are able to do so, and treatment cannot be given to you or stopped over your objection. However, if you have been determined by your doctor or ARNP to be incapacitated, you may want treatments to be withheld or given according to your agent's directions, even if you vocally object to those treatments.

You have the right to revoke the power given to your health care agent by telling him or her, or by telling your health care provider, orally or in writing, that you no longer want that person to be your health care agent.

Once this directive is executed it cannot be changed or modified. If you want to make changes, you must make an entirely new directive.

You have the right to exclude or strike references to advanced registered nurse practitioners in your advance directive and if you do so, your advance directive shall still be valid and enforceable.

This power of attorney for health care will not be valid unless it is signed in the presence of two (2) or more qualified witnesses, who must both be present when you sign and who will acknowledge your signature on the directive, OR in the presence of a notary public or justice of the peace. The following persons may not act as witnesses:

- The person you have designated as your health care agent
- Your spouse or heir at law, or beneficiaries named in your will or in a deed
- Your attending physician or APRN, or person acting under the direction or control of the attending physician or APRN

Only one of the two witnesses may be your health or residential care provider or one of your provider's employees. ●

# NEW HAMPSHIRE ADVANCE DIRECTIVE

*NOTE: This form has two sections: the Durable Power of Attorney for Health Care and the Living Will. You may complete both sections, or only one section.*

## **SECTION I. DURABLE POWER OF ATTORNEY FOR HEALTH CARE**

I, \_\_\_\_\_, (\_\_\_\_\_), hereby appoint \_\_\_\_\_  
(Name) (Date of Birth) (Name of Health Care Agent)

of \_\_\_\_\_  
(Health Care Agent's address and phone #)

*If you choose more than one agent, they will have authority in priority of the order their names are listed, unless you indicate another form of decision making.)* as my agent to make any and all health care decisions for me, except to the extent I state otherwise in this directive or as prohibited by law. This Durable Power of Attorney for Health Care shall take effect in the event I lack the capacity to make my own health care decisions.

In the event the person I appoint above is unable, unwilling or unavailable, or ineligible to act as my health care agent, I hereby appoint \_\_\_\_\_  
(Name of Health Care Agent)

of \_\_\_\_\_  
(Health Care Agent's address and phone #)

### Statement of Desires, Special Provisions, and Limitations about Health Care Decisions

For your convenience in expressing your wishes, some general statements concerning the withholding or removal of life-sustaining treatment are set forth below. (Life-sustaining treatment is defined as procedures without which a person would die, such as but not limited to the following: mechanical respiration, kidney dialysis or the use of other external mechanical and technological devices, drugs to maintain blood pressure, blood transfusions, and antibiotics.) There is also a section which allows you to set forth specific directions for these or other matters. If you wish, you may indicate your agreement or disagreement with any of the following statements and give your agent power to act in those specific circumstances.

#### **A. LIFE-SUSTAINING TREATMENT**

1. If I am near death and lack the capacity to make health care decisions, I authorize my agent to direct that:

*(Initial beside your choice of (a) or (b).)*

\_\_\_\_\_ (a) life-sustaining treatment not be started, or if started, be discontinued.

-OR-

\_\_\_\_\_ (b) life-sustaining treatment continue to be given to me.

2. Whether near death or not, if I become permanently unconscious I authorize my agent to direct that:

\_\_\_\_\_ (a) life-sustaining treatment not be started, or if started, be discontinued.

-OR-

\_\_\_\_\_ (b) life-sustaining treatment continue to be given to me.

**B. MEDICALLY ADMINISTERED NUTRITION AND HYDRATION**

I realize that situations could arise in which the only way to allow me to die would be to not start or to discontinue medically administered nutrition and hydration. In carrying out any instructions I have given in this document, I authorize my agent to direct that:

*(Initial beside your choice of (a) or (b).)*

\_\_\_\_\_ (a) medically administered nutrition and hydration not be started, or if started, be discontinued.

-or-

\_\_\_\_\_ (b) even if all other forms of life-sustaining treatment have been withdrawn, medically administered nutrition and hydration continue to be given to me.

If you fail to complete item B, your agent will not have the power to direct the withholding or withdrawal of medically administered nutrition and hydration.

**C. EXPLAINING YOUR INSTRUCTIONS IN MORE DETAIL**

*(initial next to #'s 1, 2 and 3, if you agree)*

- 1. \_\_\_\_\_ I grant my agent authority to request or agree to a DNR order.
- 2. \_\_\_\_\_ I wish to make clear my intent that my agent shall have full authority to make any and all health care decision(s) on my behalf as I would have if I had capacity to do so, without limitation including not starting, discontinuing, or continuing any life-sustaining measures (including nutrition and hydration), in all circumstances.
- 3. \_\_\_\_\_ Even if I am incapacitated and object to treatment, treatment may be given to me, or withheld, against my objection. This option is intended to grant your agent additional authority, if for example you have dementia, and you try to change the treatment being recommended by your agent and health provider.
- 4. Here you may add more specific instructions for your agent or you may leave this section blank.

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*(attach additional pages as necessary)*

\_\_\_\_\_ (Print Name) \_\_\_\_\_ (Date of Birth)



I hereby acknowledge that I have been provided with a disclosure statement explaining the effect of this directive. I have read and understand the information contained in the disclosure statement.

The original of this directive will be kept at \_\_\_\_\_  
and the following persons and institutions will have copies:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Principal's signature: \_\_\_\_\_

*[If you are physically unable to sign, this directive may be signed by someone else writing your name, in your presence and at your express direction.]*

***THIS POWER OF ATTORNEY DIRECTIVE MUST BE SIGNED BY TWO WITNESSES OR A NOTARY PUBLIC OR A JUSTICE OF THE PEACE.***

We declare that the principal appears to be of sound mind and free from duress at the time the Durable Power of Attorney for Health Care is signed and that the principal affirms that he or she is aware of the nature of the directive and is signing it freely and voluntarily.

Witness \_\_\_\_\_ Address \_\_\_\_\_

Witness \_\_\_\_\_ Address \_\_\_\_\_

**If using a Notary Public or Justice of the Peace:**

STATE OF NEW HAMPSHIRE

COUNTY OF \_\_\_\_\_

The foregoing Durable Power of Attorney for Health Care was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ ("the Principal").

\_\_\_\_\_  
Notary Public / Justice of the Peace

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
(Print Name) (Date of Birth)

**SECTION II. LIVING WILL**

Declaration made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

I, \_\_\_\_\_, being of sound mind, willfully and voluntarily make known my desire that my dying shall not be artificially prolonged under the circumstances set forth below, do hereby declare:

If at any time I should have an incurable injury, disease, or illness and I am certified to be near death or in a permanently unconscious condition by two physicians or a physician and an APRN, and two physicians or a physician and an APRN have determined that my death is imminent whether or not life-sustaining treatment is utilized and where the application of life-sustaining treatment would serve only to artificially prolong the dying process, or that I will remain in a permanently unconscious condition, I direct that such procedures be withheld or withdrawn, and that I be permitted to die naturally with only the administration of medication, the natural ingestion of food or fluids by eating and drinking, or the performance of any medical procedure deemed necessary to provide me with comfort care. I realize that situations could arise in which the only way to allow me to die would be to discontinue medically administered nutrition and hydration.

In carrying out any instruction I have given under this section, I authorize that:

*(Initial beside your choice of (a) or (b).)*

\_\_\_\_\_ (a) medically administered nutrition and hydration not be started, or if started, be discontinued.

-or-

\_\_\_\_\_ (b) even if all other forms of life-sustaining treatment have been withdrawn, medically administered nutrition and hydration continue to be given to me.

In the absence of my ability to give directions regarding the use of such life-sustaining treatment, it is my intention that this declaration shall be honored by my family and health care providers as the final expression of my right to refuse medical or surgical treatment and accept the consequences of such refusal.

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Date of Birth)

I understand the full import of this declaration, and I am emotionally and mentally competent to make this declaration.

Signed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Principal's signature: \_\_\_\_\_

*[If you are physically unable to sign, this directive may be signed by someone else writing your name, in your presence and at your express direction.]*

***THIS LIVING WILL DIRECTIVE MUST BE SIGNED BY TWO WITNESSES OR A NOTARY PUBLIC OR A JUSTICE OF THE PEACE.***

We declare that the principal appears to be of sound mind and free from duress at the time the Living Will is signed and that the principal affirms that he or she is aware of the nature of the directive and is signing it freely and voluntarily.

Witness \_\_\_\_\_ Address \_\_\_\_\_

Witness \_\_\_\_\_ Address \_\_\_\_\_

**If using a Notary Public or Justice of the Peace:**

STATE OF NEW HAMPSHIRE

COUNTY OF \_\_\_\_\_

The foregoing Living Will was acknowledged before me  
this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_ ("the Principal").

\_\_\_\_\_  
Notary Public / Justice of the Peace

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
(Print Name) (Date of Birth)

## DEFINITIONS

### **Allow Natural Death (AND)**

Allow Natural Death is an alternative language used by some people who do not want CPR but want only comfort care.

### **Attending physician or attending advanced practice registered nurse (APRN) –**

A doctor or APRN who has primary responsibility for your treatment and care. An APRN means a registered nurse having specialized clinical qualifications under state law.

### **Capacity to make health care decisions –**

The ability to generally understand the risks and benefits of a health care decision, as well as any alternate options for treatment. This is determined by a doctor or APRN.

### **CPR or Cardiopulmonary resuscitation –**

Emergency medical procedure used to try to restart heartbeat and breathing, which can involve blowing into the mouth, pushing on the chest, inserting a breathing tube into the windpipe, giving medicines into your vein, and electrical shock.

**Comfort care** – Keeping you as comfortable and peaceful as possible, including pain medication, giving you ice chips and lip ointment, turning your body to prevent bed sores and bathing you.

### **DNR or Do Not Attempt Resuscitation order –**

A medical order placed in your medical chart that says you do not want CPR performed if your heart or breathing stops.

**Guardianship** – A guardianship of an incapacitated person is established by the Probate Court when it determines that the functional limitations of a person have declined to the point where that person's ability to participate in and perform minimal activities of daily living is not present. Incapacity of the person must be proved "beyond a reasonable doubt" and

there must be no other available solutions that would impose fewer restrictions on the person.

**Health care agent** – Someone chosen as your Durable Power of Attorney for Health Care to make health care decisions when you are unable to express your own wishes for care or treatment.

**Health care decision** – This means informed consent, refusal to give informal consent or withdrawal of informed consent to any type of health care, treatment, admission to a health facility or procedure to diagnose or maintain an individual's physical or mental condition.

**Hospice care** – A team approach to provide comprehensive medical, nursing and social services, spiritual care and bereavement support for you and your family near the end of life.

**Intravenous or IV line** – A tube placed in your vein that is used to give you fluids, blood or medication.

**Life-sustaining treatment** – Any medical procedure or intervention that uses mechanical or medically administered means to sustain, restore, or supplant a vital function which, in the written judgment of the attending physician or APRN would serve only to artificially postpone the moment of death, and where the person is near death or is permanently unconscious. This may include: ventilator or mechanical respiration, artificial maintenance of blood pressure, blood transfusion, kidney dialysis and other similar procedures. It does not include lessening pain through medication or the natural ingestion of food or fluids.

**Medically administered nutrition (feeding) –**

Using IVs or tubes to supply food when you are unable to eat. A feeding tube is a medical tube through which food or water is put into your body. It does not include the natural process of eating foods.

**Medically administered hydration –** Using IVs or tubes to supply water when you are unable to drink. It does not include the natural process of drinking fluids.

**Near death –** An incurable condition caused by injury, disease or illness that reasonable medical judgment finds will cause death at any time, so that life-sustaining treatment will only postpone death. This is determined by a doctor or APRN working with an additional doctor.

**Organ and tissue donation –** Giving your usable organs for transplantation into others, which can save or improve their lives. Organs you can donate: heart, kidneys, pancreas, lungs, liver, intestines. Tissue you can donate: cornea, skin, bone marrow, heart valves, connective tissue. To be transplanted, organs must receive blood until they are removed from your body. Therefore, it may be necessary to place you on a breathing machine temporarily or provide other organ-sustaining treatment. Doctors evaluate whether you have organs or tissue suitable for transplant at or near the time of death. Your body can still be shown and buried after your death.

**Palliative care –** Taking care of the whole person – body, mind and spirit. This approach views dying as natural and personal; its goal is to provide you with relief of symptoms (see Hospice care).

**Permanently unconscious –** A lasting condition, indefinitely without improvement, in which you are not aware of your thought, your self and environment and other indicators of consciousness are absent as determined by a neurological assessment by a doctor in consultation with your doctor or APRN.

**Persistent vegetative state –** An irreversible condition where reasonable medical judgment finds the complete loss of key brain functions. It results in the end of all thinking and consciousness, although heartbeat and breathing continue. Periods of sleep and wakefulness will still occur.

**Trial of treatment –** To try treatment(s) for a period of time (such as 1 or 2 weeks) until it is decided that the treatment will or will not succeed.



FOUNDATION FOR  
HEALTHY COMMUNITIES

*The information contained in this booklet was prepared by the*

## **New Hampshire Partnership for End-of-Life Care**

... a group of organizations that helps people to plan for their health care,  
talk about their choices and have them respected.

*It has been endorsed by the following organizations:*

New Hampshire Hospital Association  
New Hampshire Medical Society  
Home Care Association of New Hampshire  
New Hampshire Health Care Association  
New Hampshire Hospice and Palliative Care Organization  
American Cancer Society

**Notice to  
Health Care Provider**

I have:  
\_\_\_\_\_ a Durable Power of Attorney  
for Health Care  
\_\_\_\_\_ a Living Will

The signed original document is  
located at:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

In case of emergency, contact:

\_\_\_\_\_  
Name  
\_\_\_\_\_  
Address  
\_\_\_\_\_  
City, State, Zip  
\_\_\_\_\_  
Phone

**Advance Directive Card**

\_\_\_\_\_  
Name  
\_\_\_\_\_  
Address  
\_\_\_\_\_  
City, State, Zip  
\_\_\_\_\_  
Signature

Please see reverse side  
for important information

Fold Here

**Notice to  
Health Care Provider**

I have:  
\_\_\_\_\_ a Durable Power of Attorney  
for Health Care  
\_\_\_\_\_ a Living Will

The signed original document is  
located at:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

In case of emergency, contact:

\_\_\_\_\_  
Name  
\_\_\_\_\_  
Address  
\_\_\_\_\_  
City, State, Zip  
\_\_\_\_\_  
Phone

**Advance Directive Card**

\_\_\_\_\_  
Name  
\_\_\_\_\_  
Address  
\_\_\_\_\_  
City, State, Zip  
\_\_\_\_\_  
Signature

Please see reverse side  
for important information

Fold Here

Cut these Advance Directive cards along the dotted lines, fold them in half and keep them in your wallet.



FOUNDATION FOR  
HEALTHY COMMUNITIES

Foundation For Healthy Communities, 125 Airport Road Concord, NH 03301  
phone (603) 225-0900 • fax (603) 225-4346 • web: [www.healthynh.com](http://www.healthynh.com)

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# Voting Sheets

**HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS**

**EXECUTIVE SESSION on SB 170**

**BILL TITLE:** relative to advance directives pertaining to life-sustaining treatment.

**DATE:** April 23, 2013

**LOB ROOM:** 205

**Amendments:**

Sponsor: Rep. Richard Meaney OLS Document #: 2013 1303h

Sponsor: Rep. Laurie Harding OLS Document #:

Sponsor: Rep. 19-0 OLS Document #:

**Motions:** OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep. Richard Meaney

Seconded by Rep. Laurie Hardie

Vote: 19-0 (Please attach record of roll call vote.)

**Motions:** OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

**CONSENT CALENDAR VOTE: 19-0**

(Vote to place on Consent Calendar must be unanimous.)

**Statement of Intent:** Refer to Committee Report

Respectfully submitted,

Rep. Lisa DiMartino, Clerk



**HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS**

**EXECUTIVE SESSION on SB 170**

**BILL TITLE:** relative to advance directives pertaining to life-sustaining treatment.

**DATE:** 4/23/13

**LOB ROOM:** 205

**Amendments:**

Sponsor: Rep. *Murray* OLS Document #: 2013-1303-h  
Sponsor: Rep. *Harding* OLS Document #:  
Sponsor: Rep. OLS Document #:

**Motions:** OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep. *Murray*  
Seconded by Rep. *Harding*  
Vote: (Please attach record of roll call vote.)

**Motions:** OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.  
Seconded by Rep.  
Vote: (Please attach record of roll call vote.)

**CONSENT CALENDAR VOTE:**

(Vote to place on Consent Calendar must be unanimous.)

**Statement of Intent:** Refer to Committee Report

Respectfully submitted,  
Rep. Lisa DiMartino, Clerk



STATE OF NEW HAMPSHIRE  
OFFICE OF THE HOUSE CLERK

3/7/2013 3:38:48 PM  
Roll Call Committee Registers  
Report

2013 SESSION

HEALTH, HUMAN SERVICES & ELDERLY AFFAIRS

Bill #: SB 170 Title: Relative to advance directives pertaining to life-sustaining treatment.

PH Date: April 16, 2013

Exec Session Date: 4 / 23 / 13

Motion: Ought to pass as amended

Amendment #: 2013-1303h

MEMBER	YEAS	NAYS
Mackay, James R, Chairman	✓	
Harding, Laurie , V Chairman	✓	
French, Barbara C	✓	
Tilton, Joy K	✓	
Andrews-Ahearn, E. Elaine	✓	
DiMartino, Lisa , Clerk	✓	
Helmstetter, Barbara S	✓	
<del>Hunt, Jane J</del>		
Mackay, Mariellen J	✓	
<del>Sherman, Thomas M</del> <u>Gale</u>	✓	
Ticehurst, Susan J	✓	
McMahon, Charles E	✓	
Emerson, Susan ,	✓	
Kotowski, Frank R,	✓	
Martel, Andre A	✓	
LeBrun, Donald L	✓	
Culbert, Patrick L	✓	
Meaney, Richard E	✓	
Nelson, Bill G	✓	
Schmidt, Stephen J	✓	
<b>TOTAL VOTE:</b>	<b>19</b>	<b>0</b>



STATE OF NEW HAMPSHIRE  
OFFICE OF THE HOUSE CLERK

3/7/2013 3:38:48 PM  
Roll Call Committee Registers  
Report

2013 SESSION

HEALTH, HUMAN SERVICES & ELDERLY AFFAIRS

Bill #: SB170 Title: relative to Advance directives to life *restoring*

PH Date: April 16 2013 Exec Session Date: 4 23 13 *Sustaining treatment*

Motion: vote on Amendment Amendment #: 2013-1303h

ought to Pass on Amendment

MEMBER	YEAS	NAYS
Mackay, James R, Chairman	✓	
Harding, Laurie , V Chairman	✓	
French, Barbara C	✓	
Tilton, Joy K	✓	
Andrews-Ahearn, E. Elaine	✓	
DiMartino, Lisa , Clerk	✓	
Helmstetter, Barbara S	✓	
<del>Hunt, Jane J,</del>		
Mackay, Mariellen J	✓	
<del>Sherman, Thomas M</del> <i>Coale</i>	✓	
Ticehurst, Susan J	✓	
McMahon, Charles E	✓	
Emerson, Susan ,	✓	
Kotowski, Frank R,	✓	
Martel, Andre A	✓	
LeBrun, Donald L	✓	
Culbert, Patrick L	✓	
Meaney, Richard E	✓	
Nelson, Bill G	✓	
Schmidt, Stephen J	✓	
<b>TOTAL VOTE:</b>	<b>19</b>	<b>0</b>

# Committee Report

**CONSENT CALENDAR**

**May 8, 2013**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Committee on HEALTH, HUMAN SERVICES &  
ELDERLY AFFAIRS to which was referred SB170,**

**AN ACT relative to advance directives pertaining to life-sustaining treatment. Having considered the same, report the same with the following amendment, and the recommendation that the bill OUGHT TO PASS WITH AMENDMENT.**

**Rep. Richard E Meaney**

**FOR THE COMMITTEE**

## COMMITTEE REPORT

Committee:	<b>HEALTH, HUMAN SERVICES &amp; ELDERLY AFFAIRS</b>
Bill Number:	<b>SB170</b>
Title:	<b>relative to advance directives pertaining to life-sustaining treatment.</b>
Date:	<b>April 23, 2013</b>
Consent Calendar:	<b>YES</b>
Recommendation:	<b>OUGHT TO PASS WITH AMENDMENT</b>

### STATEMENT OF INTENT

This bill removes a section of the state's advance directive law that people found confusing. Advance directives were difficult to complete because two references in the current law were contradictory concerning medically administered nutrition and hydration. This bill, as amended, removes contradictory language, but ensures that people who wish to address medically administered nutrition and hydration are prompted to do so in a clear manner within the body of the advance directive.

Vote 19-0.

Rep. Richard E Meaney  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File



## CONSENT CALENDAR

### HEALTH, HUMAN SERVICES & ELDERLY AFFAIRS

**SB170**, relative to advance directives pertaining to life-sustaining treatment. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Richard E Meaney for HEALTH, HUMAN SERVICES & ELDERLY AFFAIRS. This bill removes a section of the state's advance directive law that people found confusing. Advance directives were difficult to complete because two references in the current law were contradictory concerning medically administered nutrition and hydration. This bill, as amended, removes contradictory language, but ensures that people who wish to address medically administered nutrition and hydration are prompted to do so in a clear manner within the body of the advance directive. **Vote 19-0.**

Original: House Clerk  
Cc: Committee Bill File

**SB 170 relative to advance directives pertaining to life-sustaining treatment.**

**This bill removes a section of the state's advance directive law that people found confusing. Advance directives were difficult to complete because two references in the current law were contradictory concerning medically administered nutrition and hydration. This bill, as amended, removes contradictory language, but ensures that people who wish to address medically administered nutrition and hydration are prompted to do so in a clear manner within the body of the advance directive.**

**Rep. Richard Meaney  
For the Committee  
19-0 OTP/A <2013-1303h> CC**

A handwritten signature in black ink, appearing to read "Richard Meaney", is written over the typed name and affiliation.

COMMITTEE REPORT

COMMITTEE: Health, Human Services & Elderly Affairs

BILL NUMBER: SB 170

TITLE: Relative to advance directives pertaining to life-sustaining treatment.

DATE: 4/23/13 CONSENT CALENDAR: YES  NO

- OUGHT TO PASS
- OUGHT TO PASS W/ AMENDMENT
- INEXPEDIENT TO LEGISLATE
- INTERIM STUDY (Available only 2<sup>nd</sup> year of biennium)

Amendment No. 2013-1303

STATEMENT OF INTENT:

This bill removes a section of the state's advance directive law that people found confusing. Advance directives were difficult to complete because two references in the current law were contradictory concerning medically administered nutrition and hydration. This bill, as amended, removes contradictory language, but ensures that people who wish to address medically administered nutrition and hydration are prompted to do so in a clear manner within the body of the advance directive.

COMMITTEE VOTE: 19-0 *[Signature]*

RESPECTFULLY SUBMITTED,

- Copy to Committee Bill File
- Use Another Report for Minority Report

Rep. Richard Meaney  
For the Committee

Richard Meaney Hills-6