

September 30, 2019

Brian Zolynas
Division of Medicaid and Children's Health Operations
U.S. Department of Health & Human Services
Centers for Medicare & Medicaid Services
90 Seventh Street, Suite 5-300 (5W)
San Francisco, CA 94103-6707

RE: Arizona SPA #19-005, Advance Directives

Dear Mr. Zolynas:

Enclosed is State Plan Amendment (SPA) #19-005, Advance Directives, which revises the State Plan to update the advance directives section of the State Plan to ensure the advance directives brochure is always current, effective July 1, 2019.

If you have any questions about the enclosed SPA, please contact Alex Demyan at (602) 417-4130.

Sincerely,



Dana Hearn
Assistant Director
Arizona Health Care Cost Containment System (AHCCCS)

cc: Blake Holt, CMS
Mark Wong, CMS

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER <u>1 9</u> — <u>0 0 5</u>	2. STATE Arizona
3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
4. PROPOSED EFFECTIVE DATE July 1, 2019	

TO: REGIONAL ADMINISTRATOR
CENTERS FOR MEDICARE & MEDICAID SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

5. TYPE OF PLAN MATERIAL (*Check One*)

- NEW STATE PLAN AMENDMENT TO BE CONSIDERED AS NEW PLAN AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (*Separate transmittal for each amendment*)


6. FEDERAL STATUTE/REGULATION CITATION Social Security Act 1902(w)	7. FEDERAL BUDGET IMPACT a. FFY <u>2019</u> \$ <u>0</u> b. FFY <u>2020</u> \$ <u>0</u>
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT ATTACHMENT 4.34-A Page 1	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (<i>If Applicable</i>) ATTACHMENT 4.34-A Pages 1-11

10. SUBJECT OF AMENDMENT

Updates the advanced directives section of the State Plan to ensure the advanced directives brochure is always current.

11. GOVERNOR'S REVIEW (*Check One*)

- GOVERNOR'S OFFICE REPORTED NO COMMENT OTHER, AS SPECIFIED
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

12. SIGNATURE OF STATE AGENCY OFFICIAL 	16. RETURN TO Dana Hearn 801 E. Jefferson, MD#4200 Phoenix, Arizona 85034
13. TYPED NAME Dana Hearn	
14. TITLE Assistant Director	
15. DATE SUBMITTED September 30, 2019	

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED	18. DATE APPROVED
PLAN APPROVED - ONE COPY ATTACHED	
19. EFFECTIVE DATE OF APPROVED MATERIAL	20. SIGNATURE OF REGIONAL OFFICIAL
21. TYPED NAME	22. TITLE

23. REMARKS

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: Arizona

REQUIREMENTS FOR ADVANCE DIRECTIVES UNDER STATE PLANS FOR MEDICAL ASSISTANCE

The following is a written description of Arizona law (whether statutory or as recognized by Arizona courts) concerning advance directives.

~~Since December 1, 1991, specified providers under the State Plan have provided adult members, in brochure form, information about their rights to accept or refuse medical treatment and to prepare a living will or similar advance directive.~~

~~State law allows for health care powers of attorney, allows flexibility when drawing up living wills and permits pre-hospital directive category. While living wills allow patients a more general say about what treatments they will or will not accept if they become too ill to make those decisions, pre-hospital medical care directives are specific to cardiopulmonary resuscitation in the event of cardiac or respiratory arrest. Under Arizona law, providers receive protection from liability. If a provider makes a medical decision in good faith and relies on provisions of an advance directive, a court must take that into consideration if there is legal action. The law also creates a list of substitute decision makers, called "surrogates," who may act if a patient is unable to make his or her own health care decisions and has not made a health care power of attorney.~~

~~The Arizona Attorneys General's office maintains and updates the current version of Arizona's Advance Directives brochure (also referred to as the "Life Care Planning Packet"). A copy of the most recent brochure, printed in both English and Spanish, is included in this Attachment can be accessed on the following webpage:~~

~~<https://www.azag.gov/seniors/life-care-planning>.~~

~~Additionally, AHCCCS policy detailing Advance Directives requirements can be found at the following webpage:~~

~~<https://www.azahcccs.gov/shared/Downloads/MedicalPolicyManual/640AdvanceDirectives.pdf>.~~

~~In its 1992 session, the Legislature revamped state law to clarify health care powers of attorney, allow more flexibility when drawing up living wills and created the pre-hospital directive category.~~

~~While living wills allow patients a more general say about what treatments they will or will not accept if they become too ill to make those decisions, pre-hospital medical care directives are specific to five procedures: chest compression, defibrillation, assisted ventilation, intubation, and advanced life-support medications.~~

TN No. 19-005

Supersedes

TN No. 92-2394-17

Approval Date: Oct 26, 1994 Effective Date July 1, 2019 ~~1994~~

~~In 1994, the Legislature made technical changes to the pre-hospital medical care directive form. The pre-hospital directive, established in 1992, allowed individuals to choose up to five procedures which could be withheld by emergency medical personnel. The new simplified format is specific to cardiopulmonary resuscitation in the event of cardiac or respiratory arrest.~~

Sources Of Information And Forms

The following organizations provide health care directive forms and information:

Lugares de Información y Formas

Las siguientes organizaciones proveen formas de directivos de cuidado de salud e información:

Aging and Adult Administration
State of Arizona
1789 W. Jefferson
Site Code 950A
Phoenix, Arizona 85007
(602) 542-4446

Dorothy Garske Center
Your Health Care Choices Program
4250 East Camelback Road, Suite 185K
Phoenix, Arizona 85018
(602) 952-1464

Arizona Medical Association
810 West Bethany Home Road
Phoenix, Arizona 85013
(602) 246-8901

Arizona Hospital Association
Communication Department
1501 West Fountainhead Parkway, Suite 650
Tempe, Arizona 85281
(602) 968-1083

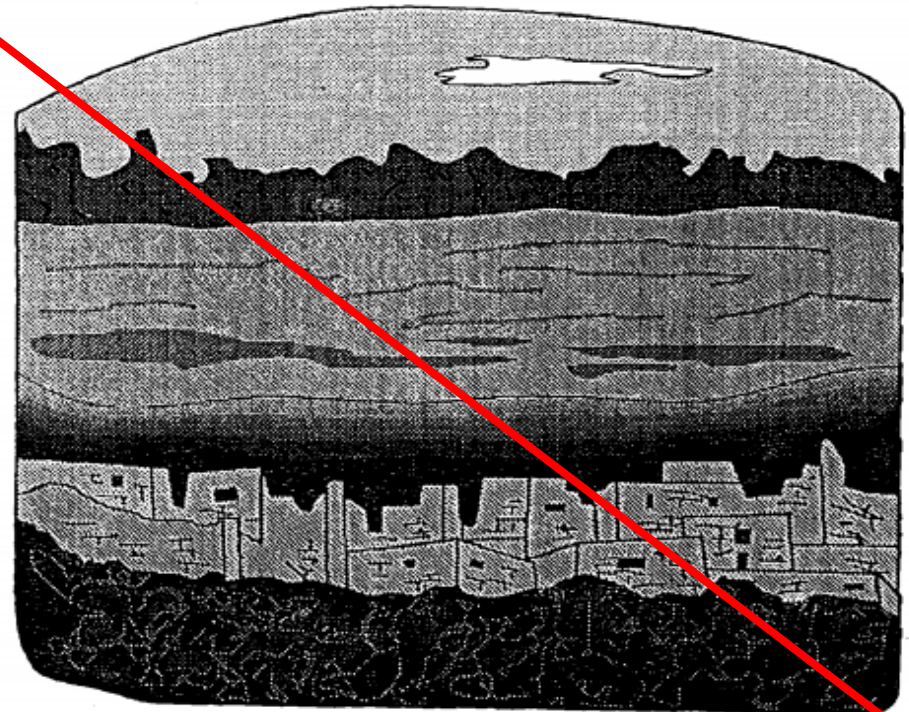
Arizona Senior Citizens Law Project
1818 S. 16th St.
Phoenix, Arizona 85034
(602) 252-6710

Decisions About Your Health Care

Living wills and other
health care directives

Decisiones Sobre Su Cuidado De Salud

Testamento en vida
y otros directivos



You are getting this information about your rights to make or control your own health care decisions because of a 1991 federal law. We hope this information will help you. A description of this health care organization's policies about your right to make health care decisions must be given to you along with this information. You are also encouraged to talk with your family, your doctor, and anyone else who could help you in these matters.

Who makes your health care decisions?

You do, if you can make and communicate them. Your doctors should tell you about the treatment they recommend, other reasonable alternatives, and important medical risks and benefits of that treatment and the alternatives. You have the right to decide what health care, if any, you will accept.

What happens if you become unable to make or communicate your health care decisions?

You can still have some control over your health care decisions, if you have planned ahead. One way to plan ahead is by making a health care directive which names someone to make these decisions for you, or which guides or controls these decisions. If you have not named someone in a health care directive, your doctors must seek a person authorized by law to make these decisions. A person who makes health care decisions for you is called a surrogate.

Está recibiendo esta información sobre su derecho para hacer o controlar sus decisiones sobre su cuidado de salud por una ley federal pasada en 1991. Esperamos que esta información le ayude. Una descripción de la póliza de esta organización de cuidado de salud sobre su derecho de hacer decisiones le debe ser entregada con esta información. Usted también es animado a que hable con su familia, su médico, y cualquier otra persona que le pueda ayudar en esta cuestión.

Quien hace sus decisiones de cuidado de salud?

Usted, si las hace y las comunica. Sus médicos deben de decirle sobre el tratamiento que recomiendan, otros alternativos razonables, los riesgos y beneficios medicinales importantes del tratamiento y el alternativo. Usted tiene el derecho de decidir que clase de cuidado médico, si alguno, aceptará.

Que pasa si llega a no poder hacer o comunicar sus decisiones sobre el cuidado de salud?

Usted puede tener algun control sobre sus decisiones sobre su cuidado de salud, si ha hecho planes anteriormente. Un modo de hacer planes de antemano es haciendo un directive de cuidado de salud que nombra alguna persona que haga estas decisiones por usted, o que guie o controle estas decisiones. Si no ha nombrado a alguien en su directive de cuidado de salud, su médico tiene que buscar a una persona autorizada por ley para hacer estas decisiones. Una persona que hace las decisiones de cuidado de salud por usted es llamada una substituta.

What is a health care directive?

It is a written statement about how you want your health care decisions made. Under Arizona law, there are three common types of health care directives. They are:

A health care power of attorney, which is a written statement in which you name an adult to make health care decisions for you. That person will make health care decisions for you only when you cannot make or communicate such decisions.

A living will, which is a written statement about health care you want or do not want that is to be followed if you cannot make your own health care decisions. For example, a living will can say whether you would want to be fed through a tube if you were unconscious and unlikely to recover.

A prehospital medical care directive, which is a directive refusing cardiopulmonary resuscitation, a type of lifesaving emergency care, if you have a heart attack or can't breathe outside a hospital or in a hospital emergency room. To make one, you must complete a special orange form.

These directives, used separately or together, can help you say "yes" to treatment you want and "no" to treatment you don't want.

Que es un directivo de cuidado de salud?

Es una declaración escrita sobre como quiere que sus decisiones de cuidado de salud sean hechas. Bajo la ley de Arizona, existen tres tipos comunes de directivos de cuidado de salud. Ellos son:

Un poder de cuidado de salud de abogado. Esta es una declaración escrita en la cual usted nombra a un adulto a que haga las decisiones de cuidado de salud por usted. Esa persona hará sus decisiones de cuidado de salud solamente cuando usted no pueda hacerlas o comunicarlas.

Un testamento en vida. Esta es una declaración escrita sobre el cuidado de salud que quiera o no quiera que sea usada si no puede hacer su propia decision sobre su cuidado de salud. Por ejemplo, un testamento en vida puede decir si quiere que sea dado de comer por medio de tubos si esta inconiente y no recuperá.

Un directivo de cuidado médico pre-hospital. Este es un directivo que rechaza resucitación cardíaco dado fuera de un hospital o en una sala de emergencia. Para hacer uno, debe completar una forma especial de color anaranjado.

Estos directivos, usados separados o juntos, pueden ayudarle a decir "sí" a tratamientos que quiere y "no" a tratamientos que no quiere.

Must your health care directives be followed?

Yes. Both health care providers and surrogates must follow valid health care directives.

Can you be required to make a health directive?

No. Whether you make a health care directive is entirely up to you. A health care provider cannot refuse care based on whether or not you have a health care directive.

Can you change or revoke health care directives?

Yes. If you change or revoke a health care directive, you should notify everyone who has a copy.

Tiene que ser seguido su directivo de cuidado de salud?

Sí. Los proveedores de cuidado de salud y sustitutos tienen que seguir directivos de cuidado de salud validos.

Puede ser requerido a hacer un directivo sobre el cuidado de salud?

No. Si hace un directivo de cuidado de salud es completamente algo de usted. Un proveedor de cuidado de salud no puede rechazarlo basado sobre si tiene o no tiene un directivo de cuidado de salud.

Puede cambiar o revocar el directivo de cuidado de salud?

Sí. Si cambia o revoca su directivo de cuidado de salud, debe notificar a todos que tienen una copia.

Who can legally make health care decisions for you if you are unable to make your own decisions and if you have not made a health care power of attorney?

A court may appoint a guardian to make health care decisions for you. Otherwise, your health care provider must go down the following list to find a surrogate to make health care decisions for you:

1. Your husband or wife, unless you are legally separated.
2. Your adult child. If you have more than one adult child, a majority of those who are available.
3. Your mother or father.
4. Your domestic partner, unless someone else has financial responsibility for you.
5. Your brother or sister.
6. A close friend of yours. (Someone who shows special concern for you and is familiar with your health care views).

Quien puede legalmente hacer una decisión sobre el cuidado de salud si no puede hacer su propia decisión y si no ha hecho un poder de cuidado de salud de abogado?

Una corte puede nombrar a un guardián para hacer decisiones de cuidado de salud por usted. De otro modo, su proveedor de cuidado de salud debe seguir la siguiente lista para encontrar a un sustituto para hacer decisiones de cuidado de salud por usted:

1. Su esposo o esposa, a menos que estén legalmente separados.
2. Un hijo(a) que sea adulto. Si tiene mas que un hijo(a) que es adulto, la mayoría de los que están disponibles.
3. Su mamá o papá.
4. Su socio domestico, a menos que otra persona tenga responsabilidad economica por usted.
5. Su hermano o hermana.
6. Un buen amigo suyo. (Alguien que tenga preocupación por usted y este familiarizado con usted y su cuidado de salud.)

If your health care provider cannot find an available and willing surrogate to make health care decisions for you, then your doctor can decide with the advice of an ethics committee or, if this is not possible, with the approval of another doctor.

You can keep anyone from becoming your surrogate by saying, preferably in writing, that you do not want that person to make health decisions for you. A surrogate will not have the right to decide to have tubes withdrawn from you that are used to give you food or fluids unless:

- You have appointed that surrogate to make health care decisions for you in a health care power of attorney; or
- A court has appointed that surrogate as your guardian to make health care decisions for you; or,
- You have stated in a health care directive that you do not want this specific treatment.

Si su proveedor de cuidado de salud no puede encontrar un sustituto disponible para hacer decisiones por usted, entonces su médico con los consejos del comité de ética puede hacerlos o, si esto no es posible, con la aprobación de otro médico.

Usted puede detener a alguien que sea su sustituto diciendo, preferiblemente por escrito, que usted no quiere que esa persona haga decisiones de cuidado de salud por usted. Un sustituto no tendrá el derecho de negar el uso de tubos para darle comida o líquidos a menos que:

- Usted ha nombrado a ese sustituto para hacer decisiones de cuidado de salud para usted en un poder de cuidado de salud de abogado; o,
- La corte ha nombrado a ese sustituto como su guardián para hacer decisiones de cuidado de salud para usted; o,
- Usted ha dicho en un directivo de cuidado de salud que usted no quiere este tratamiento específico.

**ADDITIONAL INFORMATION FOR ANYONE WHO
ALREADY HAS OR WANTS TO MAKE A HEALTH
CARE DIRECTIVE**

**What if you already have a living will or other
health care directive?**

A health care directive which was valid when made anywhere in the U.S. is valid under Arizona law. However, Arizona law changed on September 30, 1992, making new choices available to you. You should review your health care directives periodically and update them as needed.

**Do you need a lawyer to make a health care direc-
tive?**

No. Just be sure that your directive is valid under Arizona law.

**INFORMACION ADICIONAL PARA CUALQUIERA
QUE YA TIENE UNO O QUIERE HACER UN DIREC-
TIVO DE CUIDADO DE SALUD.**

**Que si ya tiene un testamento en vida o otro direc-
tivo de cuidado de salud?**

Un directivo de cuidado de salud que es válido cuando fue hecho en cualquier parte de los Estados Unidos es válido bajo la ley de Arizona. De cualquier modo, la ley de Arizona cambió el 30 de Septiembre de 1992, disponiendo nuevas opciones para usted. Usted debe revisár su directivo de cuidado de salud de vez en cuando y ponerlo al día cuando es necesario.

**Nesecita un abogado para hacer un directivo de
cuidado de salud?**

No. Nomas asegurese que su directivo es válido bajo la ley de Arizona.

What does the law require for a health care directive after September 30, 1992?

A health care power of attorney must:

- Name a person to make health care decisions for you if become unable to make your own decisions. You may also name an additional person or persons to make decisions for you if your first choice cannot serve. The person or persons must be at least 18 years old.
- Be signed or marked by you and dated.
- Be signed by a notary or by an adult witness or witnesses, who saw you sign or mark the document and who say that you appear to be of sound mind and free from duress. A notary or witness cannot be the person you name to make your decisions and cannot be providing health care to you. If you have only one witness, that witness cannot be related to you or someone who will get any of your property from your estate if you die.

Que se requiere por ley en un directivo de cuidado de salud despues del 30 de Septiembre de 1992?

Un poder de cuidado de salud de abogado tiene que:

- Nombrar una persona que haga las decisiones de cuidado de salud por usted si llega a no poder hacer sus propias decisiones. Usted tambien puede nombrar a una persona o personas adicionales para hacer sus decisiones si su primer selección no puede servir. La persona o personas tienen que tener por lo menos 18 años de edad.
- Ser firmado o marcado por usted y tener fecha.
- Ser firmado por un notario publico o por un testigo o testigos adultos, que lo vieron firmar o marcar el documento y que digan que usted estaba en mente sana y libre de coerción. El notario publico o el testigo no puede ser nombrado como la persona para hacer sus decisiones y no debe estar proviendo cuidado de salud para usted. Si nomas tiene un testigo, ese testigo no puede ser parte de su familia o tener derecho a recibir parte de su herencia si usted se muere.

A living will must:

- State how you want your health care decisions to be made in the future.
- Be signed or marked by you and dated.
- Be notarized or witnessed in the same way as described above for a health care power of attorney.

A prehospital medical care directive must:

- Be in the exact form required by law.
- Be printed on an orange background.
- Be signed or marked by you and dated.
- Be signed by a licensed health care provider and a witness.

Un testamento en vida tiene que:

- Declarar como quiere que se hagan sus decisiones de cuidado de salud en el futuro.
- Ser firmado o marcado por usted y tener fecha.
- Ser firmado por un notario publico o testigo en el mismo modo que un poder de cuidado de salud de abogado.

Un directivo de cuidado médico pre-hospital tiene que:

- Ser en la forma exacta que la ley requiere.
- Ser imprimido en una forma de color anaranjado.
- Ser firmado o marcado por usted y tener fecha.
- Ser firmado por un proveedor de cuidado de salud con licencia y un testigo.

If you have signed an orange prehospital medical care directive, you may also wear a special orange bracelet. It must state your name, your doctor's name, and the words "do not resuscitate". This bracelet will call to the attention of emergency medical personnel that you have signed the form and that you do not want cardiopulmonary resuscitation outside a hospital or in a hospital emergency room.

You should talk to your doctor about prehospital directives if you are thinking about signing one. Forms are available through the Office of Emergency Medical Services in the Department of Health Services, although any prehospital directive which is in the exact form that meets the requirements of the law may be used.

Who should have copies of your health care directives?

It is very important that you give copies to your doctors at once and to any health care facility upon admission. You should give copies to anyone you have named to make health care decisions for you in a health care power of attorney. You may also want to give copies to close family members. Be sure to keep extra copies for yourself.

Si ha firmado un directivo de cuidado médico pre-hospital de color anaranjado, también puede usar una esclava de color anaranjado. La esclava debe declarar su nombre, el nombre de su médico, y las palabras "no resucite". Esta esclava le indicará al personal médico de emergencia que usted ha completado la forma y que no quiere el cuidado médico de emergencia que ha marcado en la forma.

Usted debe consultar con su médico si piensa firmar un directivo de cuidado médico pre-hospital. Las propias formas se pueden hallar en la oficina de Emergency Medical Services, que es parte del Department of Health Services. O, usted puede usar cualquier forma exacta que satisface los requisitos de la ley.

Quien debe tener copias de su directivo de cuidado de salud?

Es muy importante que usted le de copias a su médico inmediatamente y a cualquier facilidad de cuidado de salud cuando es admitido. Debe darle copias a cualquier persona que ha nombrado para que haga decisiones por su cuidado de salud en un poder de cuidado de salud de abogado. También debe darle copias a sus familiares. Asegurese de quedarse con una copia extra para usted.