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## INTRODUCTION TO YOUR NORTH CAROLINA ADVANCE DIRECTIVE

This packet contains two legal documents that protect your right to refuse medical treatment you do not want, or to request treatment you do want, in the event you lose the ability to make decisions yourself:

**1. The North Carolina Health Care Power of Attorney** lets you name someone to make decisions about your medical care—including decisions about life support—if you can no longer speak for yourself. The Health Care Power of Attorney is especially useful because it appoints someone to speak for you any time you are unable to make your own medical or mental health treatment decisions, not only at the end of life. It becomes effective when a physician you designate or your attending physician determines in writing that you are unable to make or communicate decisions about your medical care. For mental health decisions, the determination may be made by a psychologist you designate or an eligible psychologist.

**2. The North Carolina Declaration of a Desire for a Natural Death** is your state's living will. It lets you state your wishes about medical care in the event that you become terminally and incurably ill or enter a persistent vegetative state and can no longer make your own medical decisions. The Declaration becomes effective if your death would occur without the use of life-sustaining medical care. (One other doctor must agree with your attending physician's opinion of your medical condition.)

Partnership for Caring recommends that you complete both of these documents to best ensure that you receive the medical care you want when you can no longer speak for yourself.

*Note: These documents will be legally binding only if the person completing them is a competent adult (at least 18 years old).*

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## COMPLETING YOUR NORTH CAROLINA HEALTH CARE POWER OF ATTORNEY

### Whom should I appoint as my agent?

Your agent is the person you appoint to make decisions about your medical care if you become unable to make those decisions yourself. Your agent may be a family member or a close friend whom you trust to make serious decisions. The person you name as your agent must be at least 18 years of age and should clearly understand your wishes and be willing to accept the responsibility of making medical decisions for you. (An agent may also be called an “attorney-in-fact” or “proxy.”)

You can appoint a second and third person as your alternate agent(s). The alternate will step in if the first person you name as agent is unable, unwilling or unavailable to act for you.

Any person who is providing your health care for compensation cannot serve as your agent or alternate agent.

### How do I make my North Carolina Health Care Power of Attorney legal?

In order to make your Health Care Power of Attorney legally binding, you must:

1. Sign your document in the presence of two witnesses, who must also sign

the document to show that they believe you to be of sound mind and that they do not fall into any of the categories of people who cannot be witnesses. These witnesses **cannot** be:

- related to you or your spouse within the third degree,
- entitled to any portion of your estate,
- a person who has a claim against any portion of your estate,
- your doctor or mental health treatment provider or an employee of your doctor or mental health treatment provider,
- an employee of a health care facility in which you are a patient, or
- an employee of a nursing home or any group-care home in which you are a resident

2. Have your signature and the signatures of your witnesses acknowledged by a notary public.

### Should I add personal instructions to my North Carolina Health Care Power of Attorney?

On page 2 of the Health Care Power of Attorney you may name the physician(s) who will determine when you lack the ability to make health care decisions. You may also name the physician or psychologist who will

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## COMPLETING YOUR NORTH CAROLINA HEALTH CARE POWER OF ATTORNEY (CONTINUED)

determine when you lack the ability to make mental health treatment decisions. If you do not designate a physician or a psychologist or if the physician(s) or psychologist you designate is unavailable, unable or unwilling to make the determination, your attending physician will make the determination.

If you do not wish to designate a physician because of religious or moral beliefs, you may designate a competent adult of your choice to determine when you lack the ability to make health care decisions. The person you designate must not be your agent or involved in providing your health care for compensation. The person's determination that you lack competence to make medical decisions must be certified in writing and acknowledged before a notary public.

Partnership for Caring advises you not to add further instructions under section 4 of this document. One of the strongest reasons for naming an agent is to have someone who can respond flexibly as your medical situation changes and deal with situations that you did not foresee. If you add instructions to this document, you might unintentionally restrict your agent's power to act in your best interest.

Instead, we urge you to talk with your agent about your future medical care and describe what you consider to be an acceptable "quality of life." If you want to record your wishes about specific medical treatments or conditions, you should use your North Carolina Declaration (the living will).

### **What if I change my mind?**

You may revoke your Health Care Power of Attorney at any time while you are still able to make and communicate health care decisions by:

- signing and dating a written revocation,
- executing a new Health Care Power of Attorney, or
- any other action, such as destroying the document, that indicates your intent to revoke your agent's power.

Your revocation becomes effective once you notify your agent(s) and your doctor or psychologist. Your Health Care Power of Attorney is automatically revoked if you appoint your spouse as your agent and your marriage ends (unless you have appointed an alternate agent).

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## COMPLETING YOUR NORTH CAROLINA DECLARATION OF A DESIRE FOR A NATURAL DEATH

### How do I make my Declaration legal?

In order to make your Declaration legally binding, you must:

1. Sign your Declaration in the presence of two witnesses, who must also sign the document to show that you signed the Declaration in their presence and are of sound mind and that they do not fall into any of the categories of people who cannot be your witness. These witnesses

**cannot:**

- be related within the third degree to you or your spouse,
- be entitled to any portion of your estate upon your death,
- have any claim against you,
- be your doctor or an employee of your doctor,
- be an employee of a health care facility in which you are a patient, or an employee of a nursing home or any group-care home in which you are a resident, or
- have a claim against your estate.

2. Have your signature and the signatures of your witnesses acknowledged before a notary public or Clerk (or Assistant Clerk) of the Superior Court.

### Can I add personal instructions to my Declaration?

Yes. You can add personal instructions in the part of the document called “Other directions.” For example, you may want

to refuse specific treatments by a statement such as, “I especially do not want cardiopulmonary resuscitation, a respirator, or antibiotics.” You may also want to emphasize pain control by adding instructions such as, “I want to receive as much pain medication as necessary to ensure my comfort, even if it may hasten my death.”

If you do **not** want to receive artificial nutrition and hydration you should initial the appropriate instructions on page 1 of your document.

If you have appointed an agent and you want to add personal instructions to your Declaration, it is a good idea to write a statement such as “Any questions about how to interpret or when to apply my Declaration are to be decided by my agent.”

*It is important to learn about the kinds of life-sustaining treatment you might receive. Consult your doctor or order the Partnership for Caring booklet, “Advance Directives and End-of-Life Decisions.”*

### What if I change my mind?

You may revoke your Declaration at any time and in any manner, regardless of your mental or physical condition. Your revocation becomes effective once you, or somebody acting on your behalf, notify your doctor.

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## AFTER YOU HAVE COMPLETED YOUR DOCUMENTS

**1.** Your North Carolina Health Care Power of Attorney and North Carolina Declaration are important legal documents. Keep the original signed documents in a secure but accessible place. Do not put the original documents in a safe deposit box or any other security box that would keep others from having access to them.

**2.** Give photocopies of the signed originals to your agent and alternate agent, doctor(s), family, close friends, clergy and anyone else who might become involved in your health care. If you enter a nursing home or hospital, have photocopies of your documents placed in your medical records.

**3.** Be sure to talk to your agent and alternates, doctor(s), clergy, and family and friends about your wishes concerning medical treatment. Discuss your wishes with them often, particularly if your medical condition changes.

**4.** If you want to make changes to your documents after they have been signed and witnessed, you must complete new documents.

**5.** Remember, you can always revoke one or both of your North Carolina documents.

**6.** Be aware that your North Carolina documents will not be effective in the event of a medical emergency.

Ambulance personnel are required to provide cardiopulmonary resuscitation (CPR) unless they are given a separate order that states otherwise. These orders, commonly called “nonhospital do-not-resuscitate orders,” are designed for people whose poor health gives them little chance of benefiting from CPR. These orders must be signed by your physician and instruct ambulance personnel not to attempt CPR if your heart or breathing should stop. Currently not all states have laws authorizing nonhospital do-not-resuscitate orders. Partnership for Caring does not distribute these forms. We suggest you speak to your physician.

*If you would like more information about this topic contact Partnership for Caring or consult the Partnership for Caring booklet “Cardiopulmonary Resuscitation, Do-Not-Resuscitate Orders and End-Of-Life Decisions.”*

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