Triage Cancer Estate Planning Toolkit: Virginia

Part II: Understanding Estate Planning Documents in Your State

State Laws About Wills

A will is a legal document that provides instructions for what you would like to have happen to your property upon death. A will is also a place where parents can name a guardian for any minor children or adult children with developmental disabilities.

Virginia probate courts accept written, holographic and oral wills. To make a valid written will in Virginia:

1. You need to be in the right state of mind to create a will. This means you need to be:
    - At least 18 years old
    - Of "sound mind" (meaning you know what you're doing)
2. You need to sign the will, in front of two witnesses who have watched you sign or authorize someone else to sign the will, and understand what they are signing.
3. Your will does not need to be notarized to be legal in Virginia. However, you can make your will "self-proving," or accepted in probate court without the court needing to contact your witnesses. To do this, you and your witnesses must sign an affidavit affirming the will in front of a notary.

Due to the COVID-19 pandemic, Virginia now allows you to execute your will remotely (e.g. witness the signing of a will by teleconferencing). However, before you execute your will remotely, you should check your state's laws to make sure that this is still allowed at the time you are executing your will.

A holographic will is one that is handwritten by you. To make a valid holographic will in Virginia:

1. You need to be in the right state of mind to create a will. This means you need to be:
    - At least 18 years old
    - Of "sound mind" (meaning you know what you're doing)
2. Your entire will must be written in your handwriting and you must sign it

If you make a holographic will, it does not need to be signed by witnesses. But, two witnesses will need to confirm that the will was written in your handwriting.

Oral wills are only valid for soldiers in actual military service or mariners at sea. With an oral will, you can distribute "personal property," or personal belongings like clothing or photographs.

While having a holographic or oral will is better than having no will at all, most estate planning experts do not recommend relying on them, because it is more difficult to prove that they are valid in probate court.

State Laws About Financial Powers of Attorney

A power of attorney for financial affairs is a legal document where you (the principal) name a trusted adult (the agent) who is authorized to make financial decisions on your behalf.

Virginia's durable power of attorney allows you to choose someone to manage your finances, including assets like your property, taxes, and government benefits. You can also choose an alternate agent, who will take charge separately if the first person cannot act. This person can make all financial decisions for you, or you can limit their powers to specific areas, like filing taxes or banking. This document will take effect immediately after you sign it and remain in effect if you become incapacitated. You can revoke your power of attorney at any time.

Part III of this toolkit includes a sample form.

State Laws About Advance Health Care Directives

An advance health care directive is a legal document you can use to provide written instructions, or state preferences, about your medical care in case you become unable to communicate. The **Virginia Advance Directive** includes four parts. You can complete Part I, Part II, or Part III, but you must sign Part IV to make the document valid.

- **Part I - Appointment and Powers of My Agent:** Here you can choose someone (your "agent") to make any and all health care decisions for you, including decisions about life-prolonging care, if your doctor determines you can no longer make these decisions yourself for any reason. You can also choose an alternate person if the first person you choose is not available.
- **Part II - My Health Care Instructions:** You can use this document to express your preferences for life-sustaining care in case you become seriously ill or unconscious. This includes specific situations, including administering or withholding life-prolonging procedures, artificially administered nutrition (food offered through surgically-placed tubes), and any other instructions you would like to include.
- **Part III - Organ Donation:** This section allows you to record your preferences for organ and/or tissue donation.
- **Part IV - Execution:** You must sign your advance health care directive in front of a notary public, or two adult witnesses.

You can revoke all or part of your advance health care directive at any time by:

- Signing a written revocation
- Making an oral revocation
- Destroying the document

Part III of this toolkit includes a sample form.

State Laws About POLST/MOLST

A physician order for life-sustaining treatment (POLST) is a medical order completed by a seriously ill person and signed by a physician. In Virginia, this document is called a physician order for scope of treatment (POST). The POST does not replace an advance directive. You can complete a POST form with your doctor.

This form lets you indicate your preferences for:

- Cardiopulmonary resuscitation orders (also known as a "Do not resuscitate," or DNR order)
- Medical Interventions, ranging from all medical and surgical treatments available to prolong your life, selective treatments to restore your health while avoiding burdensome procedures, or comfort-focused treatments to manage symptoms and allow natural death
- Medically assisted nutrition and hydration, or food and fluids offered through surgically-placed tubes
- Additional orders or instructions for your care

This form will not expire, so it is important for you and your physician to review it regularly to make sure it still reflects your wishes.

You can find this form in Part III of this toolkit.

State Laws About Funeral Designation Forms

Funeral designation forms allow you to tell your loved ones what you would like to happen to your remains after you pass away. These forms can be used to choose someone to control what happens to your remains after your death, specify what you would like to have happen, and other wishes depending on your state.

Virginia does not have a dedicated funeral designation form, but you can use your advance health care directive to designate someone to oversee the disposal of your remains. There is a legal duty to comply with your written wishes.

State Laws About Death with Dignity

"Death with Dignity" laws, or physician-assisted dying/aid-in-dying laws, allow certain terminally ill people to voluntarily and legally request and receive a prescription medication from their physician to hasten their death in a peaceful, humane, and dignified way. By adding a voluntary option to the continuum of end-of-life care, these laws can give you dignity, control, and peace of mind during your final days with family and loved ones.

Virginia does not have a death with dignity law. But, you can indicate other decisions related to end-of-life care through an advance health care directive.

Federal Law About HIPAA

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) is a federal law that protects the privacy of your health information. HIPAA does allow your protected health information to a be shared with your personal representative who has authority to make health care decisions for you (i.e., your health care agent or proxy).

To guarantee your agent's access to information, a HIPAA authorization form should be signed and dated by you. Also, it must identify the information to be disclosed, the purpose of the disclosure, the recipients of the information, and an expiration date. This means that any advance health care directives should be clear about the scope of your agent's authority to receive protected health care information.

You can revoke a HIPAA authorization form at any time by notifying your health care provider in writing.

Part III of this toolkit includes a sample HIPAA authorization form. For more information: www.cdc.gov/phlp/publications/topic/hipaa.html.

Triage Cancer Estate Planning Toolkit: Virginia

Part III: Your State's Estate Planning Forms

- Power of Attorney for Financial Affairs
- Advanced Health Care Directive
- Physician Order for Scope of Treatment (POST)
- HIPAA Authorization Form

Triage Cancer Estate Planning Toolkit

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Part III: Your State's Estate Planning Forms

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Power of Attorney for Financial Affairs

VIRGINIA
DURABLE POWER OF ATTORNEY FORM

I. NOTICE - This legal document grants you (Hereinafter referred to as the "Principal") the right to transfer unlimited financial powers to someone else (Hereinafter referred to as the "Attorney-in-Fact"), unlimited financial powers are described as: **all financial decision making power legal under law**. The Principal's transfer of financial powers to the Attorney-in-Fact are granted upon authorization of this agreement, and stay in effect in the event of incapacitation by the Principal (incapacitation is described in Paragraph II). This agreement does not authorize the Attorney-in-Fact to make medical decisions for the Principal. The Principal continues to retain every right to all their financial decision making power and may revoke this Durable Power of Attorney Form at anytime. The Principal may include restrictions or requests pertaining to the financial decision making power of the Attorney-in-Fact. It is the intent of the Attorney-in-Fact to act in the Principal's wishes put forth, or, to make financial decisions that fit the Principal's best interest. All parties authorizing this agreement must be at least 18 years of age and acting under no false pressures or outside influences. Upon authorization of this Durable Power of Attorney Form, it will revoke any previously valid Durable Power of Attorney Form.

II. INCAPACITATION – The powers granted to the Attorney-in-Fact by the Principal in this Durable Power of Attorney Form stay in effect upon incapacitation by the Principal, incapacitation is describes as: **A medical physician stating verbally or in writing that the Principal can no longer make decisions for them self.**

III. REVOCATION - The Principal has the right to revoke this Durable Power of Attorney Form at anytime. Any revocation will be effective if the Principal either:

A. Authorizes a new Durable Power of Attorney Form.
B. Authorizes a Power of Attorney Revocation Form.

IV. WITNESS & NOTARY - This document is not valid as a Durable Power of Attorney unless it is acknowledged before a notary public or is signed by at least two adult witnesses who are present when the Principal signs or acknowledges the Principal's signature**. It is recommended to have this Durable Power of Attorney Form notarized.**

V. PRINCIPAL - I, _____, residing at
Name of Principal

_____
Street Address of Principal

City of _____, State of _____, appoint
City of Principal *State of Principal*
the following as my Attorney-in-Fact, whom I trust with any and all my financial decision making power immediately upon the authorization of this form, and in the event that I should become incapacitated:

VI. ATTORNEY-IN-FACT - _____, residing at
Name of Attorney-in-Fact

_____
Street Address of Attorney-in-Fact

City of _____, State of _____grant
City of Attorney-in-Fact *State of Attorney-in-Fact*
the Attorney-in-Fact the legal authority to act on my behalf for any power legal under law in regard to my financial decisions under the State of

_____.
State

VII. SUCCESSOR ATTORNEY-IN-FACT *(Optional)* - If the Attorney-in-Fact named above cannot or is unwilling to serve, then I appoint _____,
Name of Successor Attorney-in-Fact
residing at

_____
Street Address of Successor Attorney-in-Fact

City of _____, State of _____grant
City of Successor Attorney-in-Fact *State of Successor Attorney-in-Fact*
the Attorney-in-Fact the legal authority to act on my behalf for any power legal under law in regard to my financial decisions under the State of

_____.
State

VIII. TERMS & CONDITIONS – Upon authorization by all parties, the Attorney-in-Fact accepts their designation to act in the Principal's best interests for all financial decisions legal under law.

TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS,

INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING.TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT

NEED NOT, CROSS OUT EACH POWER WITHHELD.

Note: If you initial Item A or Item B, which follow, a notarized signature will be required on behalf of the Principal.

INITIAL

_____ (A) Real property transactions. To lease, sell, mortgage, purchase, exchange, and acquire, and to agree, bargain, and contract for the lease, sale, purchase, exchange, and acquisition of, and to accept, take, receive, and possess any interest in real property whatsoever, on such terms and conditions, and under such covenants, as my Agent shall deem proper; and to maintain, repair, tear down, alter, rebuild, improve manage, insure, move, rent, lease, sell, convey, subject to liens, mortgages, and security deeds, and in any way or manner deal with all or any part of any interest in real property whatsoever, including specifically, but without limitation, real property lying and being situated in the State of California, under such terms and conditions, and under such covenants, as my Agent shall deem proper and may for all deferred payments accept purchase money notes payable to me and secured by mortgages or deeds to secure debt, and may from time to time collect and cancel any of said notes, mortgages, security interests, or deeds to secure debt.

_____ (B) Tangible personal property transactions. To lease, sell, mortgage, purchase, exchange, and acquire, and to agree, bargain, and contract for the lease, sale, purchase, exchange, and acquisition of, and to accept, take, receive, and possess any personal property whatsoever, tangible or intangible, or interest thereto, on such terms and conditions, and under such covenants, as my Agent shall deem proper; and to maintain, repair, improve, manage, insure, rent, lease, sell, convey, subject to liens or mortgages, or to take any other security interests in said property which are recognized under the Uniform Commercial Code as adopted at that time under the laws of the State of California or any applicable state, or otherwise hypothecate (pledge), and in any way or manner deal with all or any part of any real or personal property whatsoever, tangible or intangible, or any interest therein, that I own at the time of execution or may thereafter acquire, under such terms and conditions, and under such covenants, as my Agent shall deem proper.

_____ (C) Stock and bond transactions. To purchase, sell, exchange, surrender, assign, redeem, vote at any meeting, or otherwise transfer any and all shares of stock, bonds, or other securities in any business, association, corporation, partnership, or other legal entity, whether private or public, now or hereafter belonging to me.

_____ (D) Commodity and option transactions. To organize or continue and conduct any business which term includes, without limitation, any farming, manufacturing, service, mining, retailing or other type of business operation in any form, whether as a proprietorship, joint venture, partnership, corporation, trust or other legal entity; operate, buy, sell, expand, contract, terminate or liquidate any business; direct, control, supervise, manage or participate in the

operation of any business and engage, compensate and discharge business managers, employees, agents, attorneys, accountants and consultants; and, in general, exercise all powers with respect to business interests and operations which the principal could if present and under no disability.

_____ (E) Banking and other financial institution transactions. To make, receive, sign, endorse, execute, acknowledge, deliver and possess checks, drafts, bills of exchange, letters of credit, notes, stock certificates, withdrawal receipts and deposit instruments relating to accounts or deposits in, or certificates of deposit of banks, savings and loans, credit unions, or other institutions or associations. To pay all sums of money, at any time or times, that may hereafter be owing by me upon any account, bill of exchange, check, draft, purchase, contract, note, or trade acceptance made, executed, endorsed, accepted, and delivered by me or for me in my name, by my Agent. To borrow from time to time such sums of money as my Agent may deem proper and execute promissory notes, security deeds or agreements, financing statements, or other security instruments in such form as the lender may request and renew said notes and security instruments from time to time in whole or in part. To have free access at any time or times to any safe deposit box or vault to which I might have access.

_____ (F) Business operating transactions. To conduct, engage in, and otherwise transact the affairs of any and all lawful business ventures of whatever nature or kind that I may now or hereafter be involved in.

_____ (G) Insurance and annuity transactions. To exercise or perform any act, power, duty, right, or obligation, in regard to any contract of life, accident, health, disability, liability, or other type of insurance or any combination of insurance; and to procure new or additional contracts of insurance for me and to designate the beneficiary of same; provided, however, that my Agent cannot designate himself or herself as beneficiary of any such insurance contracts.

_____ (H) Estate, trust, and other beneficiary transactions. To accept, receipt for, exercise, release, reject, renounce, assign, disclaim, demand, sue for, claim and recover any legacy, bequest, devise, gift or other property interest or payment due or payable to or for the principal; assert any interest in and exercise any power over any trust, estate or property subject to fiduciary control; establish a revocable trust solely for the benefit of the principal that terminates at the death of the principal and is then distributable to the legal representative of the estate of the principal; and, in general, exercise all powers with respect to estates and trusts which the principal could exercise if present and under no disability; provided, however, that the Agent may not make or change a will and may not revoke or amend a trust revocable or amendable by the principal or require the trustee of any trust for the benefit of the principal to pay income or principal to the Agent unless specific authority to that end is given.

_____ (I) Claims and litigation. To commence, prosecute, discontinue, or defend all actions or other legal proceedings touching my property, real or

personal, or any part thereof, or touching any matter in which I or my property, real or personal, may be in any way concerned. To defend, settle, adjust, make allowances, compound, submit to arbitration, and compromise all accounts, reckonings, claims, and demands whatsoever that now are, or hereafter shall be, pending between me and any person, firm, corporation, or other legal entity, in such manner and in all respects as my Agent shall deem proper.

_____ (J) Personal and family maintenance. To hire accountants, attorneys at law, consultants, clerks, physicians, nurses, agents, servants, workmen, and others and to remove them, and to appoint others in their place, and to pay and allow the persons so employed such salaries, wages, or other remunerations, as my Agent shall deem proper.

_____ (K) Benefits from Social Security, Medicare, Medicaid, or other governmental programs, or military service. To prepare, sign and file any claim or application for Social Security, unemployment or military service benefits; sue for, settle or abandon any claims to any benefit or assistance under any federal, state, local or foreign statute or regulation; control, deposit to any account, collect, receipt for, and take title to and hold all benefits under any Social Security, unemployment, military service or other state, federal, local or foreign statute or regulation; and, in general, exercise all powers with respect to Social Security, unemployment, military service, and governmental benefits, including but not limited to Medicare and Medicaid, which the principal could exercise if present and under no disability.

_____ (L) Retirement plan transactions. To contribute to, withdraw from and deposit funds in any type of retirement plan (which term includes, without limitation, any tax qualified or nonqualified pension, profit sharing, stock bonus, employee savings and other retirement plan, individual retirement account, deferred compensation plan and any other type of employeebenefit plan); select and change payment options for the principal under any retirement plan; make rollover contributions from any retirement plan to other retirement plans or individual retirement accounts; exercise all investment powers available under any type of self-directed retirement plan; and, in general, exercise all powers with respect to retirement plans and retirement plan account balances which the principal could if present and under no disability.

_____ (M) Tax matters. To prepare, to make elections, to execute and to file all tax, social security, unemployment insurance, and informational returns required by the laws of the United States, or of any state or subdivision thereof, or of any foreign government; to prepare, to execute, and to file all other papers and instruments which the Agent shall think to be desirable or necessary for safeguarding of me against excess or illegal taxation or against penalties imposed for claimed violation of any law or other governmental regulation; and to pay, to compromise, or to contest or to apply for refunds in connection with any taxes or assessments for which I am or may be liable.

IX. THIRD PARTIES – I, the Principal, agree that any third party receiving a

copy via: physical copy, email, or fax that I, the Principal, will indemnify and hold harmless any and all claims that may be put forth in reference to this Durable Power of Attorney Form.

X. COMPENSATION – The Attorney-in-Fact agrees not to be compensated for acting in the presence of the Principal. The Attorney-in-Fact may be, but not entitled to, reimbursement for all: food, travel, and lodging expenses for acting in the presence of the Principal.

XI. DISCLOSURE - I intend for my attorney-in-fact under this Power of Attorney to be treated, as I would be with respect to my rights regarding the use and disclosure of my individually identifiable health information or other medical records. This release authority applies to any information governed by the Health Insurance Portability and Accountability Act of 1996 (aka HIPAA), 42 USC 1320d and 45 CFR 160-164

XII. PRINCIPAL'S SIGNATURE - I, _____, the Principal,
Printed Name of Principal

sign my name to this power of attorney this _____day of
Day
_____ and, being first duly sworn, do declare to the
Month
undersigned authority that I sign and execute this instrument as my power of attorney and that I sign it willingly, or willingly direct another to sign for me, that I execute it as my free and voluntary act for the purposes expressed in the power of attorney and that I am eighteen years of age or older, of sound mind and under no constraint or undue influence.

_____
Signature of Principal

XIII. ATTORNEY-IN-FACT'S SIGNATURE- I, _____
Name of Attorney-in-Fact
have read the attached power of attorney and am the person identified as the attorney-in-fact for the principal. I hereby acknowledge and accept my appointment as Attorney-in-Fact and that when I act as agent I shall exercise the powers for the benefit of the principal; I shall keep the assets of the principal separate from my assets; I shall exercise reasonable caution and prudence; and I shall keep a full and accurate record of all actions, receipts and disbursements on behalf of the principal.

_____ _____
Signature of Attorney-in-Fact *Date*

XIV. SUCCESSOR ATTORNEY-IN-FACT'S SIGNATURE *(Optional)* -

I, _____ have read the attached power of
Name of successor Attorney-in-Fact
attorney and am the person identified as the successor attorney-in-fact for the principal. I hereby acknowledge that I accept my appointment as Successor Attorney-in-Fact and that, in the absence of a specific provision to the contrary in the power of attorney, when I act as agent I shall exercise the powers for the benefit of the principal; I shall keep the assets of the principal separate from my assets; I shall exercise reasonable caution and prudence; and I shall keep a full and accurate record of all actions, receipts, and disbursements on behalf of the principal.

_____ _____

Signature of Successor Attorney-in-Fact *Date*

Notary Acknowledgement (*Must be completed by Notary*)

State of _____ County of _____ Subscribed, Sworn and acknowledged before me by _____, the Principal, and subscribed and sworn to before me by _____, witness, this _____ day of _____.

_____
Notary Signature

Notary Public
In and for the County of _____
State of _____
My commission expires: _____ Seal

Acknowledgement and Acceptance of Appointment as Attorney-in-Fact

I, _____have read the attached power of attorney
Name of Attorney-in-Fact
and am the person identified as the attorney-in-fact for the principal. I hereby acknowledge that accept my appointment as Attorney-in-Fact and that when I act as agent I shall exercise the powers for the benefit of the principal; I shall keep the assets of the principal separate from my assets; I shall exercise reasonable caution and prudence; and I shall keep a full and accurate of all actions, receipts and disbursements on behalf of the principal.

_____ _____
Signature of Attorney-in-Fact *Date*

Acceptance of Appointment as successor Attorney-in-Fact

I, _____have read the attached power of
Name of successor Attorney-in-Fact
attorney and am the person identified as the successor attorney-in-fact for the principal. I hereby acknowledge that I accept my appointment as Successor Attorney-in-Fact and that, in the absence of a specific provision to the contrary in the power of attorney, when I act as agent I shall exercise the powers for the benefit of the principal; I shall keep the assets of the principal separate from my assets; I shall exercise reasonable caution and prudence; and I shall keep a full and accurate record of all actions, receipts, and disbursements on behalf of the principal.

_____ _____
Signature of Successor Attorney-in-Fact *Date*

Witness Attestation

I, _____, the first witness, and I _____
Printed Name of First Witness *Printed Name of Second Witness*
the second witness, sign my name to the foregoing power of attorney being first duly sworn and do not declare to the undersigned authority that the principal signs and executed this instrument as him or her, and that I, in the presence and hearing of the principal, sign this power of attorney as witness to the principal's signing and that to the best of my knowledge the principal is eighteen years of age or older, of sound mind and under no constraint or undue influence.

_____ _____
Signature of First Witness *Signature of Second Witness*

Triage Cancer Estate Planning Toolkit

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Part III: Your State's Estate Planning Forms

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Advance Health Care Directive

Virginia Advance Directive

PRINT YOUR NAME

I, _____,
willingly and voluntarily make known my wishes in the event that I am incapable of making an informed decision about my health care, as follows in this document.

This advance directive shall not terminate in the event of my disability.

PART I: APPOINTMENT OF AGENT

(CROSS THROUGH AND INITIAL IF YOU DO NOT WANT TO APPOINT AN AGENT TO MAKE HEALTH CARE DECISIONS FOR YOU)

PRINT THE NAME, ADDRESS AND TELEPHONE NUMBER OF YOUR PRIMARY AGENT

I hereby appoint _____,
(primary agent)
of _____

_____
(address and telephone number)

as my agent to make health care decisions on my behalf as authorized in this document. If the person I have appointed above is not reasonably available or is unable or unwilling to act as my agent, then I appoint

PRINT THE NAME, ADDRESS AND TELEPHONE NUMBER OF YOUR ALTERNATE AGENT

_____,
(alternate agent)
of _____

_____,
(address and telephone number)
to serve in that capacity.

I grant to my agent, named above, full power and authority to make health care decisions on my behalf, as described below, whenever I have been determined to be incapable of making an informed decision. My agent's authority hereunder is effective as long as I am incapable of making an informed decision.

In making health care decisions on my behalf, I want my agent to follow my desires and preferences as stated in this document or as otherwise known to him or her. If my agent cannot determine what health care choice I would have made on my own behalf, then I want my agent to make a choice for me based upon what he or she believes to be in my best interests.

POWERS OF MY AGENT
(CROSS THROUGH AND INITIAL ANY LANGUAGE YOU DO NOT WANT AND ADD ANY LANGUAGE YOU DO WANT)

POWERS OF YOUR AGENT

CROSS THROUGH AND INITIAL ANY LANGUAGE YOU DO NOT WANT AND ADD ANY LANGUAGE YOU DO WANT

The powers of my agent shall include the following:

1. To consent to or refuse or withdraw consent to any type of health care, including, but not limited to, artificial respiration (breathing machine), artificially administered nutrition (tube feeding) and hydration (IV fluids), and cardiopulmonary resuscitation (CPR). This authorization specifically includes the power to consent to dosages of pain-relieving medication in excess of recommended dosages in an amount sufficient to relieve pain. This applies even if this medication carries the risk of addiction or of inadvertently hastening my death.

2. To request, receive, and review any oral or written information regarding my physical or mental health, including but not limited to medical and hospital records, and to consent to the disclosure of this information as necessary to carry out my directions as stated in this advance directive.

3. To employ and discharge my health care providers.

4. To authorize my admission, transfer, or discharge to or from a hospital, hospice, nursing home, assisted living facility, or other medical care facility.

5. To authorize my admission to a health care facility for treatment of mental illness as permitted by law. (If I have other instructions for my agent regarding treatment for mental illness, they are stated in a supplemental document.)

6. To continue to serve as my agent if I object to the agent's authority after I have been determined to be incapable of making an informed decision.

7. To authorize my participation in any health care study approved by an institutional review board or research review committee according to applicable federal or state law if the study offers the prospect of direct therapeutic benefit to me.

8. To authorize my participation in any health care study approved by an institutional review board or research review committee according to applicable federal or state law that aims to increase scientific understanding of any condition that I may have or otherwise to promote human well-being, even though it offers no prospect of direct benefit to me.

POWERS OF YOUR AGENT (continued)

9. To make decisions regarding visitation during any time that I am admitted to any health care facility, consistent with the following directions: _____

PRINT ANY ADDITIONAL POWERS YOU WANT YOUR AGENT TO HAVE OR ANY LIMITATIONS ON THE POWERS OF YOUR AGENT, IF ANY

11. Additional powers or limitations, if any:

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

ADD OTHER INSTRUCTIONS, IF ANY, REGARDING YOUR ADVANCE CARE PLANS

I give the following instructions to further guide my agent in making health care decisions for me:

THESE INSTRUCTIONS CAN FURTHER ADDRESS YOUR HEALTH CARE PLANS, SUCH AS YOUR WISHES REGARDING HOSPICE TREATMENT, BUT CAN ALSO ADDRESS OTHER ADVANCE PLANNING ISSUES, SUCH AS YOUR BURIAL WISHES

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ATTACH ADDITIONAL PAGES IF NEEDED

(attach additional pages if needed)

PART II: HEALTH CARE INSTRUCTIONS

[YOU MAY USE ANY OR ALL OF PARTS A, B, OR C IN THIS SECTION TO DIRECT YOUR HEALTH CARE EVEN IF YOU DO NOT HAVE AN AGENT. IF YOU CHOOSE NOT TO PROVIDE WRITTEN INSTRUCTIONS, DECISIONS WILL BE BASED ON YOUR VALUES AND WISHES, IF KNOWN, AND OTHERWISE ON YOUR BEST INTERESTS. IF YOU ARE AN ORGAN, EYE OR TISSUE DONOR, YOUR INSTRUCTIONS WILL BE APPLIED SO AS TO ENSURE THE MEDICAL SUITABILITY OF YOUR ORGANS, EYES AND TISSUES FOR DONATION.]

A. Instructions If I have a Terminal Condition

I provide the following instructions in the event my attending physician determines that my death is imminent (very close) and medical treatment will not help me recover:

INITIAL ONLY ONE

YOU MAY WRITE HERE YOUR OWN INSTRUCTIONS ABOUT YOUR CARE WHEN YOU ARE DYING, INCLUDING SPECIFIC INSTRUCTIONS ABOUT TREATMENTS THAT YOU DO WANT, IF MEDICALLY APPROPRIATE, OR DON'T WANT.

IT IS IMPORTANT THAT YOUR INSTRUCTIONS HERE DO NOT CONFLICT WITH OTHER INSTRUCTIONS YOU HAVE GIVEN IN THIS ADVANCE DIRECTIVE

ATTACH ADDITIONAL PAGES IF NEEDED

____ I do not want any treatments to prolong my life. This includes tube feeding, IV fluids, cardiopulmonary resuscitation (CPR), ventilator/respirator (breathing machine), kidney dialysis or antibiotics. I understand that I still will receive treatment to relieve pain and make me comfortable.

OR

____ I want all treatments to prolong my life as long as possible within the limits of generally accepted health care standards. I understand that I will receive treatment to relieve pain and make me comfortable.

OR

____ I direct the following regarding health care when I am dying:

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

(attach additional pages if needed)

INITIAL ONLY ONE

YOU MAY WRITE HERE YOUR INSTRUCTIONS ABOUT YOUR CARE WHEN YOU ARE UNABLE TO INTERACT WITH OTHERS AND ARE NOT EXPECTED TO RECOVER THIS ABILITY.

THIS INCLUDES SPECIFIC INSTRUCTIONS ABOUT TREATMENTS YOU DO WANT, IF MEDICALLY APPROPRIATE, OR DON'T WANT. IT IS IMPORTANT THAT YOUR

INSTRUCTIONS HERE DO NOT CONFLICT WITH OTHER INSTRUCTIONS YOU HAVE GIVEN IN THIS ADVANCE DIRECTIVE

ATTACH ADDITIONAL PAGES IF NEEDED

B. Instructions if I am in a Persistent Vegetative State

I provide the following instructions if my condition makes me unaware of myself or my surroundings or unable to interact with others, and it is reasonably certain that I will never recover this awareness or ability even with medical treatment:

____ I do not want any treatments to prolong my life. This includes tube feeding, IV fluids, cardiopulmonary resuscitation (CPR), ventilator/respirator (breathing machine), kidney dialysis, or antibiotics. I understand that I still will receive treatment to relieve pain and make me comfortable.

OR

____I want all treatments to prolong my life as long as possible within the limits of generally accepted health care standards. I understand that I will receive treatment to relieve pain and make me comfortable.

OR

____ I want to try treatments for a period of time in the hope of some improvement of my condition. I suggest _____ (insert time period) as the period of time, after which such treatment should be stopped if my condition has not improved. The exact time period is at the discretion of my agent or surrogate in consultation with my physician. I understand that I still will receive treatment to relieve pain and make me comfortable.

OR

____I direct the following regarding when I am unaware of myself or my surroundings or unable to interact with others, and it is reasonably certain that I will never recover this awareness or ability even with medical treatment:

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

(attach additional pages if needed)

YOU MAY WRITE HERE STATEMENTS AND INSTRUCTIONS ABOUT TREATMENTS THAT YOU DO WANT, IF MEDICALLY APPROPRIATE, OR ABOUT TREATMENTS YOU DO NOT WANT UNDER SPECIFIC CIRCUMSTANCES OR ANY CIRCUMSTANCES.

IT IS IMPORTANT YOUR INSTRUCTIONS HERE DO NOT CONFLICT WITH OTHER INSTRUCTIONS YOU HAVE GIVEN IN THIS ADVANCE DIRECTIVE

THESE INSTRUCTIONS CAN ADDRESS YOUR HEALTH CARE PLANS, SUCH AS YOUR WISHES REGARDING HOSPICE TREATMENT, BUT CAN ALSO ADDRESS OTHER ADVANCE PLANNING ISSUES, SUCH AS YOUR BURIAL WISHES

ATTACH ADDITIONAL PAGES IF NEEDED

C. Other Instructions Regarding My Health Care

I further direct the following regarding my health care when I am incapable of making my own health care decisions:

(attach additional pages if needed)

PART III: ORGAN DONATION

[YOU MAY USE THIS DOCUMENT TO RECORD YOUR DECISION TO DONATE YOUR ORGANS, EYES AND TISSUES OR YOUR WHOLE BODY AFTER YOUR DEATH. IF YOU DO NOT MAKE THIS DECISION HERE OR IN ANY OTHER DOCUMENT, YOUR AGENT CAN MAKE THE DECISION FOR YOU UNLESS YOU SPECIFICALLY PROHIBIT HIM/HER FROM DOING SO, WHICH YOU MAY DO IN THIS OR SOME OTHER DOCUMENT. CHECK ONE OF THE BOXES BELOW IF YOU WISH TO USE THIS SECTION TO MAKE YOUR DONATION DECISION.]

IF YOU WISH TO DONATE YOUR ORGANS, EYES, OR TISSUES, INITIAL THE OPTION THAT REFLECTS YOUR WISHES

_____I donate my organs, eyes, and tissues for use in transplantation, therapy, research and education. I direct that all necessary measures be taken to ensure the medical suitability of my organs, eyes, or tissues for donation. I understand that I may register my directions at the Department of Motor Vehicles or directly on the donor registry, www.DonateLifeVirginia.org, and that I may use the donor registry to amend or revoke my directions;

OR

_____I donate my whole body for research and education.

INSERT ANY SPECIFIC INSTRUCTIONS YOU WISH TO GIVE ABOUT ANATOMICAL GIFTS, IF ANY

ATTACH ADDITIONAL PAGES IF NECESSARY

I direct the following regarding donation of my organs, eyes, and tissues:

PART IV: EXECUTION

Affirmation and Right to Revoke: By signing below, I indicate that I am emotionally and mentally capable of making this advance directive and that I understand the purpose and effect of this document. I understand I may revoke all or any part of this document at any time.

SIGN, DATE, AND PRINT YOUR NAME HERE

_____

(signature of declarant) (date)

_____

(printed name)

The declarant signed the foregoing advance directive in my presence.

YOUR TWO WITNESSES MUST SIGN, DATE, AND PRINT THEIR NAMES HERE

Witness Signature _____ Date_____

Printed name _____

Witness Signature _____ Date_____

Printed name _____

Courtesy of Caringinfo
1731 King St., Suite 100, Alexandria, VA 22314
www.caringinfo.org, 800-658-8898

Triage Cancer Estate Planning Toolkit

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Part III: Your State's Estate Planning Forms

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Physician Orders for Life Sustaining Treatment (POLST)

HIPAA permits disclosure to health care professionals and authorized decision makers for treatment

Virginia Physician Orders for Scope of Treatment (POST)

This is a Physician Order Sheet based on the patient's current medical condition and wishes. Any section not completed creates no presumption about the patient's preferences for treatment.

Name Last / First / M.I.	
Address	
City / State / Zip	
Date of Birth (mm/dd/yyyy)	Last 4 Digits of SSN ☐☐☐☐

A
✓one only

CARDIOPULMONARY RESUSCITATION (CPR): Person has no pulse and is not breathing.

☐ Attempt Resuscitation ☐ Do Not Attempt Resuscitation (DDNR/DNR/No CPR)

If "Do Not Attempt Resuscitation" is checked, this is a DDNR order. See Page 2 for instructions for use.

If a previous Durable Do Not Resuscitate form or POST form indicating Do Not Attempt Resuscitation was signed by the patient, only the patient can consent to reversing such a Durable DNR Order.

When not in cardiopulmonary arrest, follow orders in B & C

B
✓one only

If "Attempt Resuscitation" is checked in Section A, Virginia EMS protocol includes intubation when needed.

MEDICAL INTERVENTIONS: Patient has pulse and / or is breathing.

☐ **Comfort Measures:** Treat with dignity and respect. Keep warm and dry. Use medication by any route, positioning, wound care and other measures to relieve pain and suffering. Use oxygen, suction and manual treatment of airway obstruction as needed for comfort. Transfer to hospital *only* if comfort needs cannot be met in current location. Also see "Other Orders" if indicated below.

☐ **Limited Additional Interventions:** Includes comfort measures described above. Do not use intubation or mechanical ventilation. May consider less invasive airway support (e.g., CPAP or BiPAP). Use additional medical treatment, antibiotics, and cardiac monitoring as indicated. Hospital transfer if indicated. Avoid intensive care unit if possible. Also see "Other Orders" if indicated below.

☐ **Full Interventions:** In addition to Comfort Measures above, use intubation, mechanical ventilation, cardioversion as indicated. Transfer to hospital if indicated. Include intensive care unit. Also see "Other Orders" if indicated below.

Other Orders: _____

C
✓one only

ARTIFICIALLY ADMINISTERED NUTRITION: Always offer food and fluids by mouth if feasible.

☐ **NO** feeding tube (Not consistent with patient's goals given current medical condition)

☐ Feeding tube for a defined trial period (specific goal to be determined in consultation with treating physician)

☐ Feeding tube long-term if indicated

Other Orders: _____

D

Must be signed by a physician, nurse practitioner or physician assistant

PROVIDER SIGNATURE: My signature below indicates that I have discussed the decisions documented herein with the patient or the person legally authorized to consent on the patient's behalf and have considered the patient's goals for treatment to the best of my knowledge.

DISCUSSED WITH (Required):

☐Patient ☐Agent named on Advance Directive ☐Other person legally authorized ☐Court appointed guardian

SIGNATURE (REQUIRED): _____ **DATE (REQUIRED):** _____

PROVIDER NAME (REQUIRED): _____ **PHONE:** _____

Signature of Patient or Authorized Person (Required)

Signature: _____ **Date:** _____

If the patient signs and Do Not Attempt Resuscitation is checked in Section A, only the patient can revoke consent for the Do Not Resuscitate Order.

Print Name: _____

If patient lacks capacity, describe authority to consent on the patient's behalf: _____

If the patient has no Advance Directive, the following persons may consent for the patient in this order: Guardian, Spouse, Adult Children, Parents, Adult Siblings, Other Relative in descending order of blood relationship (Code of Virginia §54.1-2986)

FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

www.virginiapost.org

patient label

HIPAA permits disclosure to health care professionals and authorized decision makers for treatment

NAME: _____ **Date of Birth:** _____

CARE SETTING WHERE POST WAS COMPLETED

☐ Long-Term Care ☐ Hospital ☐ Home ☐ Hospice Facility ☐ Outpatient Practice ☐ Other _____

Name of Care Setting: _____

Name of Healthcare Professional Preparing Form:

Print Name: _____ Date: _____ Organization: _____

This form is meant to reflect decisions for treatment based on the patient's current medical condition. It should be reviewed periodically and updated as needed with changes in condition, patient preferences, or setting.

Instructions for Use of This Form

Completing POST

- POST is not valid until signed by a physician, nurse practitioner or physician assistant who has a bona fide relationship with the patient. Nurse practitioners and physician assistants are authorized to sign POST forms under the Code of Virginia §54.1-2957.02 and §54.1-2952.2 respectively. Health care organizations may have policies that impose limitations on this authority based on the provider's individual scope of practice.
- Use of the original form is encouraged. A photocopy, fax or electronic version should be honored as if it were an original.

Using POST

- Patients may choose Full Interventions to authorize ventilation/intubation as a treatment for respiratory distress and still choose Do Not Attempt Resuscitation in the event of a full cardio-pulmonary arrest.
- When comfort cannot be achieved in the current setting, the patient, including someone who has chosen "Comfort Measures," should be transferred to a setting able to provide comfort (e.g. treatment of a hip fracture).
- Review POST periodically and update if needed with changes in condition, patient preferences or setting.

Revoking/Making Changes to Section A

- Administrative Code of Virginia §12VAC5-66-10 states "Durable DNR order shall also include a Physician Orders for Scope of Treatment (POST) form." Therefore, provisions under Code of Virginia §54.1-2987.1 apply to POST Section A.
- If "Do Not Attempt Resuscitation" is checked in Section A, and Section D is completed, and the patient has signed this form, no one has the authority to revoke consent for the DDNR order other than the patient as stated in the Code of Virginia §54.1-2987.1.
- If "Attempt Resuscitation" is checked in Section A, a legally authorized decision maker may make changes to carry out the patient's preferences in light of the patient's changing condition.

Making Changes to Sections B and C

- To change any orders in these sections, the current POST form must be voided and a new POST form completed.
- If the POST is revoked and no new POST form is completed, full treatment and resuscitation may be initiated.
- If a patient tells a healthcare professional that they wish to revoke their consent to POST or change POST, the healthcare professional caring for the patient should draw a line through the front of the form and write "VOID" on the original, date and sign, and notify the patient's physician. A new POST form then may be completed if desired by the patient.
- If not in a healthcare facility, the patient (or person authorized to make decisions on the patient's behalf, in keeping with the patient's goals for treatment) may revoke consent for POST orders by voiding the form as described above and informing a healthcare professional. The healthcare professional must then notify the patient's physician so that appropriate orders may be written and a new POST form created if desired by the patient.
- If the patient signs this form and becomes unable to make healthcare decisions, a legally authorized decision maker may continue carrying out the patient's preferences in light of the patient's changing condition, and in consultation with the treating physician, may sign, revoke consent to, or request changes to the POST orders (except in Section A as noted above).

FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

POST forms are available to medical providers and organizations that have agreed to the standards set forth by the Virginia POST Collaborative. Contact: program.coordinator@virginiapost.org

Triage Cancer Estate Planning Toolkit

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Part III: Your State's Estate Planning Forms

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HIPAA Authorization Form

Sample HIPAA Right of Access Form for Family Member/Friend

I, _____, direct my health care and medical services providers and payers to disclose and release my protected health information described below to:

Name: *Relationship:*

_____ _____

Contact information: _____

_____

Health Information to be disclosed upon the request of the person named above -- (Check either A or B):

- ☐ A. **Disclose** my complete health record (including but not limited to diagnoses, lab tests, prognosis, treatment, and billing, for all conditions) **OR**
- ☐ B. **Disclose** my health record, as above, **BUT do not disclose** the following (check as appropriate):
  - ☐ Mental health records
  - ☐ Communicable diseases (including HIV and AIDS)
  - ☐ Alcohol/drug abuse treatment
  - ☐ Other (please specify):

    _____
    _____

Form of Disclosure (unless another format is mutually agreed upon between my provider and designee):

- ☐ An electronic record or access through an online portal
- ☐ Hard copy

This authorization shall be effective until (Check one):

- ☐ All past, present, and future periods, OR
- ☐ Date or event:_____

unless I revoke it. (NOTE: You may revoke this authorization in writing at any time by notifying your health care providers, preferably in writing.)

_____ _____
Name of the Individual Giving this Authorization Date of birth

_____ _____
Signature of the Individual Giving this Authorization Date

Note: HIPAA Authority for Right of Access: 45 C.F.R. § 164.524