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NOTE: A living will, also known as an advance directive for a natural death, makes no provision for your personal belongings or property after your death. A living will should not be confused with a testamentary will. If you have additional questions about making a living will or health care power of attorney you should discuss them with a physician or attorney.
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What is a Health Care Power of Attorney? • A health care power of attorney is a legal document by which you give authority to another person or persons to consent to or refuse any or all medical care, including mental health treatment, on your behalf. This authority is only applicable if a physician or eligible psychologist determines that you are unable to make or communicate these decisions yourself. You may authorize the designated person or persons (the “health care agent”) to consent to the withholding or withdrawal of life-prolonging measures (for example, respirator care and artificial nutrition or hydration) that would only serve to delay your death. In a living will you may also direct the provision of artificial nutrition and/or artificial hydration, together with or separate from life-prolonging measures.

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You should carefully consider the implications of executing these documents, both as to the course of your future medical care and as to the effect of your decisions on your loved ones. Many people retain the services of an attorney to prepare their living will and health care power of attorney.

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Can I Have Both a Living Will and a Health Care Power of Attorney? • Yes. You may have a living will indicating your health care choices in the event you are unable to make those decisions in the future, and you also may have a health care power of attorney designating an individual to act on your behalf, consistent with your wishes, to act in your place, at any time, whether or not you are incapacitated to make medical decisions. A health care power of attorney will remain effective if a court appoints a guardian to act on your behalf, unless the court issues an order suspending the authority of the health care agent. You may indicate in the document your choice of a guardian in the event guardianship proceedings are commenced.

What are Life-Prolonging Measures? • Life-prolonging measures are those medical procedures or interventions which only serve to postpone artificially the moment of death by sustaining, restoring, or supplanting a vital function and may include mechanical ventilation, dialysis, antibiotics, artificial nutrition and hydration, and similar forms of treatment. Life-prolonging measures are distinct from medical care designed to provide comfort or alleviate pain.

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Living wills and health care powers of attorney are recouped and destroyed in order to prevent disputes or disagreements between family members or between your family and the attending physician as to the appropriate medical care because these documents clearly state your preferences and appoint a health care agent with full authority to decide.

Where Should I Keep My Living Will or Health Care Power of Attorney? It is suggested that you give a copy of these documents to your family physician, your attorney, and your guardian or attorney-in-fact. For a nominal fee of $10, you may also file a copy of these documents with the Advance Health Care Directive Registry maintained by the Secretary of State (www.secretary.state.nc.us/ahcdr/). Each registrant receives a password allowing remote online access to his or her documents.

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This pamphlet was prepared as a public service by the Communications Committee and is not intended to be a comprehensive statement of the law. North Carolina laws change frequently and could affect the information in this pamphlet. If you have specific questions with regard to any matters contained in this pamphlet, you are encouraged to consult an attorney. If you need an attorney, please contact the North Carolina Lawyer Referral Service, a nonprofit public service project of the North Carolina Bar Association, via phone (1.800.662.7660) or online (www.ncfindalawyer.org).

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