The Halachic Medical Directive

MEDICAL POWER OF ATTORNEY AND ADVANCE DIRECTIVE WITH RESPECT TO HEALTH CARE DECISIONS AND POST-MORTEM DECISIONS

FOR USE IN TEXAS

The "Halachic Medical Directive" is designed to help ensure that all medical and post-death decisions made by others on your behalf will be made in accordance with Jewish law and custom (*halacha*). The text of this Halachic Medical Directive has been approved by attorneys for use in your state as of January, 2011. While we do not expect that any future change in federal or state laws would materially affect the validity of this document, you may wish to show it to your own attorney to confirm its effectiveness in subsequent years.

INSTRUCTIONS

(a) **Please print your name on the first line of the form.**

(b) **In Section 1, print the name, address, and telephone numbers of the person you wish to designate as your agent** to make medical decisions on your behalf if, G-d forbid, you ever become incapable of making them on your own. Be sure to include all numbers (including cell phone and pager) where your agent can be reached in the event of an emergency. If the contact information for your agent changes, you should provide that updated information to everyone whom you have provided with a copy of your Halachic Medical Directive.

You may also insert the name, address, and telephone numbers of an alternate agent to make such decisions if your main agent is unable, unwilling, or unavailable to make such decisions.

It is recommended that before appointing anyone to serve as your agent or alternate agent you should ascertain that person's willingness to serve in such capacity. In addition, if you have made arrangements with a burial society (Chevra Kadisha), you may wish to advise your agents of such arrangements.

Note: *Texas law allows virtually any competent adult* (an adult is a person 18 years of age or older) *to serve as a health care agent*. Thus, you may appoint as your agent (or alternate agent) your spouse, adult child, parent or other adult relative. However, a non-relative appointee who is your physician or an employee of a home health agency, hospital, nursing home, or residential care home providing you with care cannot act in both capacities at the same time; by law, he or she must choose whether to act as your agent or provide you with medical care.

(c) **In section 2B, please print the name, address, and telephone numbers of the Orthodox Rabbi whose guidance you want your agent to follow,** should any questions arise as to the requirements of *halacha*.

You should then print the name, address, and telephone numbers of the Orthodox Jewish institution or organization you want your agent to contact for a

referral to *another* Orthodox Rabbi *if* the rabbi you have identified is unable, unwilling, or unavailable to provide the appropriate consultation and guidance.

You are, of course, free to insert the name of any Orthodox Rabbi or institution/organization you would like, but before doing so it is advisable to discuss the matter with the rabbi or institution/organization to ascertain their competency and willingness to serve in such a capacity.

(d) **In Section 7, sign and print your name, address, phone numbers, and the date.**

(e) **In the DECLARATION OF WITNESSES Section, two witnesses should sign their names and insert their addresses beneath your signature.** These two witnesses must be competent adults. At least one of your witnesses cannot be the following: your relative by blood or marriage, a person entitled to any part of your estate, a person who has a claim against your estate, your attending physician or an employee of your attending physician, or an employee of a health care facility in which you are being cared for if the employee is providing you with direct care or is an officer, director, partner or business employee of the health care facility or of any parent organization of the health care facility.

(f) It is recommended that you keep the original of this form among your valuable papers in a location that is readily accessible in the event of an emergency; and that you **distribute copies to the health care agent (and alternate agent)** you have designated in section 1, **to the rabbi and institution/organization** you have designated in section 3, as well as to **your doctors, your lawyer**, and anyone else who is likely to be contacted in times of emergency. You must notify your attending physician of the existence of this written directive; if you are incompetent or otherwise mentally or physically incapable of communication, another person may notify the attending physician of the written directive. Your attending physician must then make the directive a part of your medical record. . We also recommend that you register a copy of this form with a national registry, so that it can be accessed by any health care facility via computer. Agudath Israel has made an arrangement with the New York Legal Assistance Group to register Halachic Medical Directives for our constituents with the U.S. Living Will Registry at no charge. To obtain the forms to enable you to do so, e-mail TXdirective@agudathisrael.org or call our office (212-797-9000).

(g) **If at any time you wish to revoke this Medical Power of Attorney and Directive, you may do so by:** 1) orally stating to your attending physician your intent to revoke the directive; 2) signing and dating a written revocation and notifying your attending physician of its existence or mailing the revocation to your attending physician; or 3) you (or someone at your direction, in your presence) canceling, defacing, obliterating, burning, tearing or otherwise destroying this form. To avoid possible confusion, it would be wise to try to obtain all originals and copies of the old Medical Power of Attorney and Directive and destroy them.

If you do not revoke this Medical Power of Attorney and Directive, Texas law provides that it remains in effect indefinitely. However, if you name your spouse as your principal agent, in the event of divorce the Medical Power of Attorney and Directive is automatically revoked. Obviously, if any of the persons whose names you have inserted in your Medical Power of Attorney and Directive dies or becomes otherwise incapable of serving in the role you have assigned, it would be wise to execute a new Medical Power of Attorney and Directive.

It is important that you discuss this document with your physician, your rabbi and the agents that you appoint. You do not need a lawyer's assistance to complete this form. However, if you do not understand any part of the document, you may wish to contact a lawyer for assistance.

(h) It is recommended that you also complete the **Emergency Instructions Card**, and carry it with you in your wallet or billfold.

(i) If, upon consultation with your rabbi, you would like to add to this standardized Medical Power of Attorney and Directive any additional expression of your wishes with respect to medical and/or post-mortem decisions, you may do so by attaching a "rider" to the standardized form. If you choose to do so, or if you have any other questions concerning this form, please consult an attorney.

These instructions are not part of the Halachic Medical Directive and need not be kept attached to the executed document.

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MEDICAL POWER OF ATTORNEY AND ADVANCE DIRECTIVE

WITH RESPECT TO HEALTH CARE DECISIONS AND POST-MORTEM DECISIONS

FOR USE IN TEXAS

INFORMATION CONCERNING THE MEDICAL POWER OF ATTORNEY

THIS IS AN IMPORTANT LEGAL DOCUMENT. BEFORE SIGNING THIS DOCUMENT, YOU SHOULD KNOW THESE IMPORTANT FACTS:

Except to the extent you state otherwise, this document gives the person you name as your agent the authority to make any and all health care decisions for you in accordance with your wishes, including your religious and moral beliefs, when you are no longer capable of making them yourself. Because "health care" means any treatment, service, or procedure to maintain, diagnose, or treat your physical or mental condition, your agent has the power to make a broad range of health care decisions for you. Your agent may consent, refuse to consent, or withdraw consent to medical treatment and may make decisions about withdrawing or withholding life-sustaining treatment. Your agent may not consent to voluntary inpatient mental health services, convulsive treatment, psychosurgery, or abortion. A physician must comply with your agent's instructions or allow you to be transferred to another physician.

Your agent's authority begins when your doctor certifies that you lack the competence to make health care decisions.

Your agent is obligated to follow your instructions when making decisions on your behalf. Unless you state otherwise, your agent has the same authority to make decisions about your health care as you would have had.

It is important that you discuss this document with your physician or other health care provider before you sign it to make sure that you understand the nature and range of decisions that may be made on your behalf. If you do not have a physician, you should talk with someone else who is knowledgeable about these issues and can answer your questions. You do not need a lawyer's assistance to complete this document, but if there is anything in this document that you do not understand, you should ask a lawyer to explain it to you.

The person you appoint as agent should be someone you know and trust. The person must be 18 years of age or older or a person under 18 years of age who has had the disabilities of minority removed. If you appoint your health or residential care provider (e.g., your physician or an employee of a home health agency, hospital, nursing home, or residential care home, other than a relative), that person has to choose between acting as your agent or as your health or residential care provider; the law does not permit a person to do both at the same time.

You should inform the person you appoint that you want the person to be your health care agent. You should discuss this document with your agent and your physician and give each a signed copy. You should indicate on the document itself the people and institutions who have signed copies. Your agent is not liable for health care decisions made in good faith on your behalf.

Even after you have signed this document, 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. You have the right to revoke the authority granted to your agent by informing your agent or your health or residential care provider orally or in writing or by your execution of a subsequent medical power of attorney. Unless you state otherwise, your appointment of a spouse dissolves on divorce.

This document may not be changed or modified. If you want to make changes in the document, you must make an entirely new one.

You may wish to designate an alternate agent in the event that your agent is unwilling, unable, or ineligible to act as your agent. Any alternate agent you designate has the same authority to make health care decisions for you.

THIS POWER OF ATTORNEY IS NOT VALID UNLESS IT IS SIGNED IN THE PRESENCE OF TWO COMPETENT ADULT WITNESSES. THE FOLLOWING PERSONS MAY NOT ACT AS ONE OF THE WITNESSES:
(1) the person you have designated as your agent;
(2) a person related to you by blood or marriage;
(3) a person entitled to any part of your estate after your death under a will or codicil executed by you or by operation of law;
(4) your attending physician;
(5) an employee of your attending physician;
(6) an employee of a health care facility in which you are a patient if the employee is providing direct patient care to you or is an officer, director, partner, or business office employee of the health care facility or of any parent organization of the health care facility; or
(7) a person who, at the time this power of attorney is executed, has a claim against any part of your estate after your death.

MEDICAL POWER OF ATTORNEY AND ADVANCE DIRECTIVE

WITH RESPECT TO HEALTH CARE DECISIONS AND POST-MORTEM DECISIONS

FOR USE IN TEXAS

I, _____, hereby declare as follows:

1. **Appointment of Agent**: In recognition of the fact that there may come a time when I will become unable to make my own health care decisions because of illness, injury or other circumstances, I hereby appoint

Agent

Name of Agent:
_____

Address:
_____

Telephone: Day: _____ Evening: _____

Cell Phone: _____ Pager/beeper: _____

as my health care agent to make any and all health care decisions for me, consistent with my wishes as set forth in this directive, except to the extent stated otherwise in this directive.

If the person named above is unable, unwilling or unavailable to act as my agent, I hereby appoint

Alternate Agent

Name of Alternate Agent:
_____

Address:
_____

Telephone: Day: _____ Evening: _____

Cell Phone: _____ Pager/beeper: _____

to serve in such capacity.

This appointment shall take effect in the event that my physician certifies in writing that I have become unable, because of illness, injury or other circumstances, to make my own health care decisions.

2. The limitations on the decision making authority of my agent are as follows:

A. Jewish Law to Govern Health Care Decisions: I am Jewish. It is my desire, and I hereby direct, that all health care decisions made for me (whether made by my agent, a guardian appointed for me, or any other person) be made pursuant to Jewish law and custom as determined in accordance with strict Orthodox interpretation and tradition. Without limiting in any way the generality of the foregoing, it is my wish that Jewish law and custom should dictate the course of my health care with respect to such matters as the performance of cardio-pulmonary resuscitation if I suffer cardiac or respiratory arrest; the performance of life-sustaining surgical procedures and the initiation or maintenance of any particular course of life-sustaining medical treatment or other form of life-support maintenance, including the provision of nutrition and hydration; and the criteria by which death shall be determined, including the method by which such criteria shall be medically ascertained or confirmed.

B. Ascertaining the Requirements of Jewish Law: In determining the requirements of Jewish law and custom in connection with this declaration, I direct my agent to consult with the following Orthodox Rabbi and I ask my agent to follow his guidance:

Rabbi

Name of Rabbi: _____

Address: _____

Telephone: Day: _____ Evening: _____

Cell: _____ Pager/beeper: _____

If such Orthodox Rabbi is unable, unwilling or unavailable to provide such consultation and guidance, then I direct my agent to consult with, and I ask my agent to follow the guidance of, an Orthodox Rabbi referred by the following Orthodox Jewish institution or organization:

Organization

Name of Institution/Organization: _____

Address: _____

Telephone: Day: _____ Evening: _____

If such institution or organization is unable, unwilling or unavailable to make such a reference, or if the Orthodox Rabbi referred by such institution or organization is unable, unwilling or unavailable to provide such guidance, then I direct my agent to consult with, and I ask my agent to follow the guidance of, an Orthodox Rabbi whose guidance on issues of Jewish law and custom my agent in good faith believes I would respect and follow.

3. Direction to Health Care Providers: Any health care provider shall rely upon and carry out the decisions of my agent, and may assume that such decisions reflect my wishes and were arrived at in accordance with the procedures set forth in this directive, unless such health care provider shall have good cause to believe that my agent has not acted in good faith in accordance with my wishes as expressed in this directive.

If the persons designated in section 1 above as my agent and alternate agent are unable, unwilling or unavailable to serve in such capacity, it is my desire, and I hereby direct, that any health care provider or other person who will be making health care decisions on my behalf follow the procedures outlined in section 2 above in determining the requirements of Jewish law and custom.

Pending contact with the agent and/or Orthodox Rabbi described above, it is my desire, and I hereby direct, that all health care providers undertake all essential emergency and/or life sustaining measures on my behalf.

4. Access to Medical Records and Information; HIPAA: My agent is my personal representative, as such term is defined under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), and accordingly all of my protected health information (as such term is defined under HIPAA) and other medical records shall be made available to my agent upon request in the same manner as such information and records would be released and disclosed to me, and my agent shall have and may exercise all of the rights I would have regarding the use and disclosure of such information and records, as required under HIPAA.

5. Post-Mortem Decisions: It is also my desire, and I hereby direct, that after my death, all decisions concerning the handling and disposition of my body be made pursuant to Jewish law and custom as determined in accordance with strict Orthodox interpretation and tradition. For example, Jewish law generally requires expeditious burial and imposes special requirements with regard to the preparation of the body for burial. It is my wish that Jewish law and custom be followed with respect to these matters. I further direct that my agent be responsible for the disposition of my remains.

Further, subject to certain limited exceptions, Jewish law generally prohibits the performance of any autopsy or dissection. It is my wish that Jewish law and custom be followed with respect to such procedures, and with respect to all other post-mortem matters including the removal and usage of any of my body organs or tissue for transplantation or any other purposes. I direct that any health care provider in attendance at my death notify the agent and/or Orthodox Rabbi described above immediately upon my death, in addition to any other person whose consent by law must be solicited and obtained, prior to the use of any part of my body as an anatomical gift, so that appropriate decisions and arrangements can be made in accordance with my wishes. Pending such notification, and unless there is specific authorization by the Orthodox Rabbi consulted in accordance with the procedures outlined in paragraph 2 above, it is my desire, and I hereby direct, that no post-mortem procedure be performed on my body.

6. Incontrovertible Evidence of My Wishes: If, for any reason, this document is deemed not legally effective as a health care proxy, or if the persons designated in section 1 above as my agent and alternate agent are unable, unwilling or unavailable to serve in such capacity, I declare to my family, my doctor and anyone else whom it may concern

that the wishes I have expressed herein with regard to compliance with Jewish law and custom should be treated as incontrovertible evidence of my intent and desire with respect to all health care measures and post-mortem procedures; and that it is my wish that the procedure outlined in section 2 above should be followed in determining the requirements of Jewish law and custom.

7. Duration and Revocation: It is my understanding and intention that unless I revoke this power of attorney and directive or unless I establish a shorter time period, it will remain in effect indefinitely. My signature on this document shall be deemed to constitute a revocation of any prior health medical power of attorney or advance medical directive or other similar document I may have executed prior to today's date.

8. Acknowledgement of Disclosure Statement: I have been provided with a disclosure statement explaining the effect of this document. I have read and understand the information contained in the disclosure statement.

My Signature

Signature: _____

Print Name: _____

Date: _____

Address: _____

Telephone: Day: _____ Evening: _____

DECLARATION OF WITNESSES

I, on this _____ day of _____, 20__, declare that the person who signed (or asked another to sign) this document is personally known to me and appears to be of sound mind and acting willingly and free from duress. He/She signed (or asked another to sign for him/her) this document in my presence (and that person signed in my presence). I, as Witness 1, declare that I am not the person appointed as agent by this document, nor am I one of the following persons in relation to the person who signed (the "patient"): a relative by blood or marriage; a person entitled to any part of the patient's estate; a person who has a claim against the patient's estate; the attending physician; employee of the attending physician; employee of a health care facility in which the patient is being cared for who is providing direct care to the patient; or an officer, director, partner, or business office employee of a health care facility in which the patient is being cared for or of any parent organization of the health care facility.

WITNESS 1 ("Witness 1" should be the witness who qualifies to make the additional declaration in the third sentence of the DECLARATION OF WITNESSES above).

Signature:_____

Print Name: _____

Address: _____

WITNESS 2

Signature: _____

Print Name:

_____

Address: _____

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