

NATIONAL HEALTHCARE DECISIONS DAY

★ *your decisions matter* ★

January 12, 2012

Barack Obama
President of the United States of America
The White House
Office of Presidential Messages and Proclamations
Washington, D.C. 20502

Dear President Obama:

On behalf of the National Healthcare Decisions Day Initiative, I am writing to seek a **Presidential proclamation in honor of National Healthcare Decisions Day on April 16, 2012**. On this day, all across the country, health care facilities, health care professionals, chaplains, the legal community, and others will be participating in a collective effort to highlight the importance of making advance health care decisions and to provide tools for making these decisions.

National Healthcare Decisions Day seeks to address the various misunderstandings in the public about advance directives, including that:

- People (and many healthcare providers) do not know the differences between a living will and a healthcare power of attorney.
- People believe advance directives are only used for limiting care.
- People assume they need a lawyer to draft an advance directive and/or that it is hard to do.
- People are unaware of the need to talk about healthcare planning when they are healthy (assuming severe illness or a catastrophic injury will never happen to them).

In an effort to educate the public and demystify the topic of advance care planning, the National Healthcare Decisions Day Initiative is working to:

- Secure participation of every hospital, nursing home, and assisted living facility in the Country and a broad array of community organizations focused on healthcare;
- Secure participation by professionals throughout the country, including physicians, nurses, chaplains, and attorneys;
- Create a diversified set of resources to provide clear, concise, and consistent information to the public about healthcare decision-making and advance directives; and
- Increase the number of people who have engaged in thoughtful advance care planning.

Ultimately, National Healthcare Decisions Day strives to provide much-needed information to the public, reduce the number of tragedies that occur when a patient's wishes are unknown, and improve the ability of healthcare facilities and providers to offer informed and thoughtful guidance about advance healthcare planning to their patients.

In four years, we have had participation by 110 national organizations, at least 1,200 state/local organizations, and the US military at bases throughout the world! Furthermore, survey results

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from less than half of participating organizations indicated over 2.2 million facility/organization staff members received NHDD/AD information or training, over 1 million members of the general public participated in NHDD events and/or were known to have received advance directive information, and roughly 17,500 advance directives were completed on NHDD alone! Furthermore, in 2008 the event was recognized by both houses of Congress (S.Con.Res.73 & H.Con.Res.323), and several individual states have formally recognized the event. For information about NHDD, please visit: <http://www.nhdd.org>

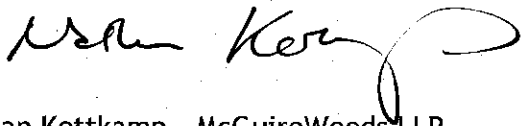
As I believe you know, the Federal Patient Self-Determination Act requires that all Medicare-participating healthcare facilities inquire about and provide information to patients on Advance Directives; it also requires these facilities to provide community education on Advance Directives. See 42 C.F.R. § 489.102. Unfortunately, despite these requirements and state laws giving patients a choice about their healthcare, it is estimated that only a small minority of people have executed an Advance Directive. Moreover, fewer than 50% of severely or terminally ill patients have an Advance Directive in their medical records.

Please be aware that there is no "agenda" to this initiative other than education and improving the ability to honor patients' wishes. To that end, we hope that all people will discuss and document their wishes, whatever they are. Indeed, I hope that you will agree that documenting healthcare wishes is entirely consistent with the types of personal responsibility that should be fostered among all Americans. Additionally, from an economic perspective, there are great efficiencies to be gained in terms of both time and money if we are able to know patients wishes without having to involve ethics committees, lawyers, and others. Furthermore, I would also ask that you encourage the entire administration to "lead by example" and ensure that they have documented their own healthcare choices. Ideally, better recognition of this topic—and its importance for all Americans—will help us (finally) move past the "death panels" myth and on to improved care.

Attached is a draft proclamation for National Healthcare Decisions Day. If you would like an electronic copy, please do not hesitate to contact me.

We thank you for helping us in making this initiative a success. If you have any questions, please do not hesitate to contact me directly at 804.775.1092 or at my office, c/o McGuireWoods, 901 East Cary Street, Richmond, VA 23219, or nkottkamp@mcguirewoods.com.

Sincerely,



Nathan Kottkamp - McGuireWoods LLP
Chair
National Healthcare Decisions Day Initiative

cc: Kathleen Sebelius
Marilyn Tavenner

National Healthcare Decisions Day

WHEREAS, *National Healthcare Decisions Day* is designed to raise public awareness of the need to plan ahead for healthcare decisions related to end-of-life care and medical decision-making whenever patients are unable to speak for themselves and to encourage the specific use of advance directives to communicate these important decisions;

WHEREAS, the Patient Self-Determination Act, 42 U.S.C. § 1395cc(f), guarantees patients the right to information about their rights under state law regarding accepting or refusing medical treatment;

WHEREAS, it is estimated that only a minority of Americans have executed advance directives, including those who are terminally ill or living with life-threatening or life-limiting illnesses;

WHEREAS, advance directives offer individuals the opportunity to discuss with loved ones in advance of a healthcare crisis and decide what measures would be appropriate for them when it comes to end-of-life care;

WHEREAS, the preparation of an advance directive would advise family members, healthcare providers, and other persons as to how an individual would want to be treated with respect to healthcare;

WHEREAS, to avoid any legal or medical confusion due to the emotions involved in end-of-life decisions, it is in the best interest of all Americans that each person over the age of 18 communicate his or her wishes by creating an advance directive;

WHEREAS, the Conditions of Participation in Medicare and Medicaid, 42 C.F.R. § 489.102, require all participating facilities to provide information to patients and the public on the topic of advance directives;

WHEREAS, the Centers for Medicare and Medicaid Services has recognized that the use of advance directives is tied to quality healthcare and has included advance directives discussions in the criteria of the Physician Quality Reporting Initiative;

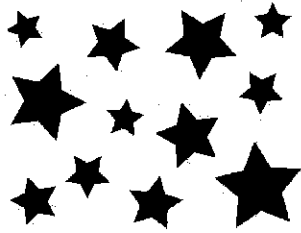
WHEREAS, establishing *National Healthcare Decisions Day* will encourage healthcare facilities and professionals as well as chaplains, attorneys, and others to participate in a collective, nationwide effort to provide clear, concise, and consistent information to the public about healthcare decision-making, particularly advance directives;

WHEREAS, as a result of April 16, 2012, being recognized as *National Healthcare Decisions Day*, more Americans will have conversations about their healthcare decisions; more Americans will execute advance directives to make their wishes known; and fewer families and healthcare providers will have to struggle with making difficult healthcare decisions in the absence of guidance from the patient;

NOW, THEREFORE, I, Barack Obama, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 16, 2012, as *National Healthcare Decisions Day*. I call upon the people of the United States to observe this day by engaging in thoughtful advance healthcare planning.

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of _____, in the year of our Lord two thousand twelve, and of the Independence of the United States of America the two hundred and thirty-seventh.

BARACK OBAMA



NATIONAL HEALTHCARE DECISIONS DAY

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National Healthcare Decisions Day 2011 Report Card

In four years, National Healthcare Decisions Day has enjoyed:

- Participation by at least 110 national organizations
- Participation by at least 1,200 state/local organizations
- Participation at US military at bases throughout the world
- 37 states with dedicated state liaisons

Survey results from roughly a quarter of participating organizations indicated:

- Over 2.2 million facility/organization staff members received NHDD/advance directive information or training
- At least 1 million members of the general public participated in NHDD events and/or were known to have received advance directive information
- Over 2 million people were exposed to NHDD via various social media outlets: Facebook, Twitter, and LinkedIn
- Over 17,500 advance directives were completed on the four NHDDs alone

In 2008 (NHDD's inaugural year):

- NHDD was formally recognized by both houses of Congress (S.Con.Res.73 & H.Con.Res.323)

Each year:

- NHDD has been formally recognized by several individual states and localities.
- There has been a variety of coverage in newspapers, TV, radio, and the internet

Please join us on April 16:

www.nationalhealthcaredecisionsday.org or www.nhdd.org
www.facebook.com/nationalhealthcaredecisionsday and twitter: [@NHDD](https://twitter.com/NHDD)

The National Healthcare Decisions Day (NHDD) Initiative is a collaborative effort of national, state and community organizations committed to ensuring that all adults with decision-making capacity in the United States have the information and opportunity to communicate and document their healthcare decisions.