

Advance Directives

An advance directive is a written document or series of forms. You sign it to make it binding. The document indicates your choices about medical treatment. In the document, you can also name someone to make decisions about your medical treatment if you are unable to make these decisions or choices yourself. By completing the appropriate advance directives, you can predetermine end-of-life decisions about your future medical care in a legally sound way.

An advance directive is purely optional. All health care facilities such as hospitals that accept federal funding are required by law to ask if you have one and offer you the appropriate information and documents to sign one, if you so choose. Of course, the fact that you are reading this puts you one step ahead of the game.

You should consider an advance directive if any of the following are true:

- You want to be sure your voice is heard when you can no longer speak.
- You want to be sure that your wishes are respected and followed in the event that you are unable to make medical decisions for yourself.
- You want to be sure that, if you fall victim to a cardiac arrest after you have suffered with a long-term, end-stage medical condition, cardiopulmonary resuscitation (CPR) or other heroic measures will not be performed.
- No doctor or health care provider can force you to complete an advance directive.

Two types of advance directives are generally completed: a living will and a medical power of attorney (also referred to as designation of a health care surrogate or health care proxy).

Living will: This written statement tells health care providers what type of life-prolonging treatments or procedures to perform if you have a terminal condition or are in a persistent vegetative state. Living wills should not be confused with a regular will. A living will only deals with and addresses issues regarding your medical care while you are still living.

Medical power of attorney (or designation of a health care surrogate): This legal document allows you to select any person to make medical decisions for you if you should become temporarily or even permanently unable to make those decisions for yourself. This person is also referred to as your attorney-in-fact, but it is not necessary for them to be a lawyer.

- **Do not resuscitate (DNR):** Your doctor discusses this form or document with you, and it tells health care providers and emergency personnel that if your heart stops beating (cardiac arrest) or if you stop breathing (respiratory arrest) that they are not to attempt to revive you by any means. **A DNR is not the same as a living will. This center will not honor the DNR aspect of your advance directive.** In an emergency, we will act to employ all life saving measures while you are under our care.
- A lawyer may be helpful with the completion of these matters, but one is not required.
- You can designate information regarding organ donation in most advance directive documents.
- You can withdraw or revoke your advance directive at any time you choose.
- The laws regarding advance directives vary from state to state. If you plan to spend an extended period of time in another state, complete the necessary papers for that state regarding your medical wishes. Legal experts agree, however, that most states will honor an out-of-state advance directive if it meets legal requirements in the state that it was executed.
- Give copies of your advance directive to as many people as you can.

The **Florida Designation of Healthcare Surrogate** 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 Designation of Healthcare Surrogate is especially useful because it appoints someone to speak for you any time you are unable to make your own medical decisions, not only at the end of life.

The **Florida Living Will** lets you state your wishes about medical care in the event that you have an end-stage condition, become persistently vegetative, or develop a terminal condition and can no longer make your own medical decisions. A second doctor must agree with your attending physician's opinion of your medical condition.

You can access these forms at www.caringinfo.org or you can get a copy of the packet from the facility. You can also call 1-888-895-7873.

FLORIDA Advance Directive Planning for Important Healthcare Decisions

Caring Connections

1731 King St., Suite 100, Alexandria, VA 22314

www.caringinfo.org

800/658-8898

Caring Connections, a program of the National Hospice and Palliative Care Organization (NHPCO), is a national consumer engagement initiative to improve care at the end of life.

Caring Connections tracks and monitors all state and federal legislation and significant court cases related to end-of-life care to ensure that our advance directives are up to date.

It's About How You LIVE

It's About How You LIVE is a national community engagement campaign encouraging individuals to make informed decisions about end-of-life care and services. The campaign encourages people to:

Learn about options for end-of-life services and care

Implement plans to ensure wishes are honored

Voice decisions to family, friends and healthcare providers

Engage in personal or community efforts to improve end-of-life care

Visit www.caringinfo.org to learn more about the LIVE campaign, obtain free resources, or join the effort to improve community, state and national end-of-life care.

If you would like to make a contribution to help support our work, please visit www.nationalhospicefoundation.org/donate. Contributions to national hospice programs can also be made through the Combined Health Charities or the Combined Federal Campaign by choosing #11241.

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Your Advance Care Planning Packet

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Using these materials

BEFORE YOU BEGIN

1. Check to be sure that you have the materials for each state in which you may receive healthcare.
2. These materials include:
 - Instructions for preparing your advance directive.
 - Your state-specific advance directive forms, which are the pages with the gray instruction bar on the left side.

PREPARING TO COMPLETE YOUR ADVANCE DIRECTIVE

3. Read the HIPAA Privacy Rule Summary on page 4.
4. Read all the instructions, on pages 7 through 10, as they will give you specific information about the requirements in your state.
5. Refer to the Glossary located in Appendix A if any of the terms are unclear.

ACTION STEPS

6. You may want to photocopy these forms before you start so you will have a clean copy if you need to start over.
7. When you begin to fill out the forms, refer to the gray instruction bars - they will guide you through the process.
8. Talk with your family, friends, and physicians about your advance directive. Be sure the person you appoint to make decisions on your behalf understands your wishes.
9. Once the form is completed and signed, photocopy the form and give it to the person you have appointed to make decisions on your behalf, your family, friends, healthcare providers and/or faith leaders so that the form is available in the event of an emergency.

If you have questions or need guidance in preparing your advance directive or about what you should do with it after you have completed it, please refer to the state-specific contacts for Legal & End-of-Life Care Resources Pertaining to Healthcare Advance Directives, located in Appendix B.

Summary of the HIPAA Privacy Rule

HIPAA is a federal law that gives you rights over your health information and sets rules and limits on who can look at and receive your health information.

Your Rights

You have the right to:

- Ask to see and get a copy of your health records.
- Have corrections added to your health information.
- Receive a notice that tells you how your health information may be used and shared.
- Decide if you want to give your permission before your health information can be used or shared for certain purposes, such as marketing.
- Get a report on when and why your health information was shared for certain purposes.
- If you believe your rights are being denied or your health information isn't being protected, you can:
 - File a complaint with your provider or health insurer, or
 - File a complaint with the U.S. Government.

You also have the right to ask your provider or health insurer questions about your rights. You can learn more about your rights, including how to file a complaint from the Web site at www.hhs.gov/ocr/hipaa/ or by calling 1-866-627-7748.

Who Must Follow this Law?

- Doctors, nurses, pharmacies, hospitals, clinics, nursing homes, and many other healthcare providers.
- Health insurance companies, HMOs, most employer group health plans.
- Certain government programs that pay for healthcare, such as Medicare and Medicaid.

What Information is Protected?

- Information your doctors, nurses, and other healthcare providers put in your medical record.
- Conversations your doctor has had about your care or treatment with nurses and others healthcare professionals.
- Information about you in your health insurer's computer system.
- Billing information about you from your clinic/healthcare provider.
- Most other health information about you, held by those who must follow this law.

Summary of the HIPAA Privacy Rule (continued)

Providers and health insurers who are required to follow this law must keep your information private by:

- Teaching the people who work for them how your information may and may not be used and shared,
- Taking appropriate and reasonable steps to keep your health information secure.

To make sure that your information is protected in a way that does not interfere with your healthcare, your information can be used and shared:

- For your treatment and care coordination,
- To pay doctors and hospitals for your healthcare,
- With your family, relatives, friends or others you identify who are involved with your healthcare or your healthcare bills, unless you object,
- To protect the public's health, such as reporting when the flu is in your area, or
- To make required reports to the police, such as reporting gunshot wounds.

Your health information cannot be used or shared without your written permission unless this law allows it. For example, without your authorization, your provider generally cannot:

- Give your information to your employer.
- Use or share your information for marketing or advertising purposes, or
- Share private notes about your mental health counseling sessions.

Introduction to Your Florida Advance Directive

This packet contains the *Advance Directive for Healthcare* which protects 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 **Florida Designation of Healthcare Surrogate** 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 Designation of Healthcare Surrogate is especially useful because it appoints someone to speak for you any time you are unable to make your own medical decisions, not only at the end of life.
2. The **Florida Living Will** lets you state your wishes about medical care in the event that you have an end-stage condition, become persistently vegetative, or develop a terminal condition and can no longer make your own medical decisions. A second doctor must agree with your attending physician's opinion of your medical condition.

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

Completing Your Florida Designation of Healthcare Surrogate

Whom should I appoint as my surrogate?

A surrogate is the person you appoint to make decisions about your medical care if you become unable to make those decisions yourself. Your surrogate can be a family member or a close friend whom you trust to make serious decisions. The person you name as your surrogate should clearly understand your wishes and be willing to accept the responsibility of making medical decisions for you.

You can appoint a second person as your alternate surrogate. The alternate surrogate may act on your behalf if the first person you name as surrogate is unable, unwilling or unavailable to act for you.

How do I make my Florida Designation of Healthcare Surrogate legal?

The law requires that you sign your Designation of Healthcare Surrogate in the presence of two adult witnesses, who must also sign the document. If you are physically unable to sign, you may have another person sign for you in your presence and in the presence of the two witnesses. The persons you appoint as your surrogate and alternate surrogate cannot act as witnesses to this document. At least one of your witnesses must not be your spouse or a blood relative.

Note: You do not need to notarize your Florida Designation of Healthcare Surrogate.

Should I add personal instructions to my Florida Designation of Healthcare Surrogate?

One of the strongest reasons for naming a surrogate 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 surrogate's power to act in your best interest.

Talk with your surrogate 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 treatments or conditions, you should use your Florida Living Will.

What if I change my mind?

You can always revoke your Florida Designation of Healthcare Surrogate if you no longer want your designated surrogate(s) to make decisions on your behalf. State law permits you to revoke your document in the following ways:

1. through a signed and dated writing showing your intent to revoke;
2. by physically destroying the original, or having someone destroy it for you in your presence;
3. by orally expressing your intent to revoke; or

Completing Your Florida Designation of Healthcare Surrogate (continued)

4. by executing a new Designation of Healthcare Surrogate that supersedes the older document.

You should also be aware that if you name your spouse as your surrogate and your marriage is subsequently dissolved or annulled, your former spouse will no longer be your surrogate unless you provide otherwise in your Florida Designation of Healthcare Surrogate.

What other facts should I know?

If you would like to give your surrogate the authority to refuse life-sustaining treatment for you in the event that you become terminally ill and incompetent while you are pregnant, you must add an instruction such as, "My surrogate has the authority to order the withholding or withdrawal of life-sustaining treatment even if I am pregnant," under "Additional instructions."

Completing Your Florida Living Will

How do I make my Florida Living Will legal?

The law requires that you sign your Living Will in the presence of two adult witnesses, who must also sign the document. If you are physically unable to sign, you may instruct one of the witnesses to sign the document for you in your presence. At least one of your witnesses must not be your spouse or a blood relative.

Note: You do not need to notarize your Florida Living Will.

Can I add personal instructions to my Living Will?

Yes. You can add personal instructions in the part of the document called "Additional instructions. If you have appointed a surrogate and you want to add personal instructions to your Living Will, it is a good idea to write a statement such as, "Any questions about how to interpret or when to apply my Living Will are to be decided by my surrogate."

What if I change my mind?

You can revoke your Florida Living Will any time you feel the document no longer reflects your wishes. State law permits you to revoke your Living Will in the following ways:

1. through a signed and dated writing showing your intent to revoke;
2. by physically destroying the original, or having someone destroy it for you in your presence;
3. by orally expressing your intent to revoke; or
4. by executing a new Living Will that supersedes the older document.

As with the Florida Designation of Healthcare Surrogate, if you name your spouse as your surrogate but your marriage is later dissolved or annulled, your former spouse will no longer be able to serve as your surrogate, unless you provide otherwise in your Living Will.

Completing Your Florida Living Will (continued)

What other facts should I know?

You may appoint a surrogate in your Living Will to make decisions on your behalf. Unlike a surrogate appointed in your Designation of Healthcare Surrogate, a surrogate appointed through your Living Will may only act in the following circumstances: You are unable to make treatment decisions and do not have a reasonable medical probability of recovering that capacity, and you have an end-stage condition, or are in a terminal condition; or are in a persistent vegetative state. To avoid confusion, you should appoint the same person to act as your surrogate in both Florida documents.

**FLORIDA DESIGNATION OF HEALTH CARE SURROGATE
PAGE 2 OF 2**

I further affirm that this designation is not being made as a condition of treatment or admission to a health care facility. I will notify and send a copy of this document to the following persons other than my surrogate, so they may know who my surrogate is:

PRINT THE NAMES
AND ADDRESSES OF
THOSE WHO YOU
WANT TO KEEP
COPIES OF THIS
DOCUMENT

Name: _____

Address: _____

Name: _____

Address: _____

SIGN AND DATE
THE DOCUMENT

Signed: _____

Date: _____

WITNESSING
PROCEDURE

Witness 1:

Signed: _____

Address: _____

TWO WITNESSES
MUST SIGN AND
PRINT THEIR
ADDRESSES

Witness 2:

Signed: _____

Address: _____

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

FLORIDA LIVING WILL – PAGE 1 OF 4

INSTRUCTIONS

PRINT THE DATE

Declaration made this _____ day of _____, _____,
(day) (month) (year)

PRINT YOUR NAME

I, _____,
willfully and voluntarily make known my desire that my dying not be
artificially prolonged under the circumstances set forth below, and I do
hereby declare that:

PLEASE INITIAL
EACH THAT APPLIES

If at any time I am incapacitated and

_____ I have a terminal condition, or

_____ I have an end-stage condition, or

_____ I am in a persistent vegetative state

and if my attending or treating physician and another consulting physician
have determined that there is no reasonable medical probability of my
recovery from such condition, I direct that life-prolonging procedures be
withheld or withdrawn when the application of such procedures would
serve only to prolong artificially the process of dying, and that I be
permitted to die naturally with only the administration of medication or
the performance of any medical procedure deemed necessary to provide
me with comfort care or to alleviate pain.

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INSTRUCTIONS

FLORIDA LIVING WILL – PAGE 2 OF 4

It is my intention that this declaration be honored by my family and physician as the final expression of my legal right to refuse medical or surgical treatment and to accept the consequences for such refusal. In the event that I have been determined to be unable to provide express and informed consent regarding the withholding, withdrawal, or continuation of life-prolonging procedures, I wish to designate, as my surrogate to carry out the provisions of this declaration:

Name: _____

Address: _____

_____ Zip Code: _____

Phone: _____

PRINT THE NAME,
HOME ADDRESS
AND TELEPHONE
NUMBER OF YOUR
SURROGATE

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FLORIDA LIVING WILL - PAGE 3 OF 4

I wish to designate the following person as my alternate surrogate, to carry out the provisions of this declaration should my surrogate be unwilling or unable to act on my behalf:

PRINT NAME, HOME ADDRESS AND TELEPHONE NUMBER OF YOUR ALTERNATE SURROGATE

Name: _____

Address: _____

_____ Zip Code: _____

Phone: _____

ADD PERSONAL INSTRUCTIONS (IF ANY)

Additional instructions (optional):

ORGAN DONATION (OPTIONAL)

ORGAN DONATION (OPTIONAL)

Under Florida law, you may make a gift of all or part of your body by expressing your wish to donate in a living will or advance directive signed in the presence of two witnesses who must sign the document in your presence. You may revoke or amend an anatomical gift by: (1) the execution and delivery of a signed statement; (2) an oral statement that is made in the presence of two persons, one of whom must not be a family member, and communicated to your family or attorney or to the donee; or (3) a statement during a terminal illness or injury addressed to an attending physician.

Initial the line next to the statement below that best reflects your wishes. If you do not complete this section, your agent will have the authority to make a gift of a part of your body pursuant to law unless you give them notice that you do not want a gift made. **The donation elections you make here survive your death.**

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FLORIDA LIVING WILL - PAGE 4 OF 4

CHECK THE OPTION THAT REFLECTS YOUR WISHES

____ In the hope that I may help others, I hereby make this organ and tissue gift, if medically acceptable, to take effect upon my death. The words and marks (or notations) below indicate my desires. **Default** choice is (a).

I give:

(a) ____ any needed organ or tissue

(b) ____ only the following organs or tissue for the purpose of transplantation, therapy, medical research or education:

(c) ____ my body for anatomical study if needed.

____ I do not want to make an organ or tissue donation and I do not want my agent or family to do so.

ADD LIMITATIONS OR SPECIAL WISHES (IF ANY)

Limitations or special wishes, if any, list below:

WITNESSING PROCEDURE

I, _____ understand the full import of this declaration, and I am emotionally and mentally competent to make this declaration.

SIGN THE DOCUMENT

Signed: _____

Witness 1:

Signed: _____

Address: _____

Witness 2:

Signed: _____

Address: _____

TWO WITNESSES MUST SIGN AND PRINT THEIR ADDRESSES

*Courtesy of Caring Connections
1731 King St., Suite 100, Alexandria, VA 22314
www.caringinfo.org, 800/658-8898*

You Have Filled Out Your Advance Directive, Now What?

1. Your Florida Living Will and Florida Designation of Healthcare Surrogate are important legal documents. Keep the original signed document in a secure but accessible place. Do not put the original document in a safe deposit box or any other security box that would keep others from having access to it.
2. Give photocopies of the signed originals to your surrogate and alternate surrogate, to your doctor(s), family, close friends, clergy and anyone else who might become involved in your healthcare. If you enter a nursing home or hospital, have photocopies of your document placed in your medical records.
3. Be sure to talk to your surrogate (and alternate), your doctor(s), clergy, 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 a new document.
5. Remember, you can always revoke your document.
6. Be aware that your document 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 "non-hospital 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 non-hospital do-not-resuscitate orders. We suggest you speak to your physician for more information. **Caring Connections does not distribute these forms.**

Appendix A

Glossary

Advance directive - A general term that describes two kinds of legal documents, living wills and medical powers of attorney. These documents allow a person to give instructions about future medical care should he or she be unable to participate in medical decisions due to serious illness or incapacity. Each state regulates the use of advance directives differently.

Artificial nutrition and hydration – Artificial nutrition and hydration supplements or replaces ordinary eating and drinking by giving a chemically balanced mix of nutrients and fluids through a tube placed directly into the stomach, the upper intestine or a vein.

Brain death – The irreversible loss of all brain function. Most states legally define death to include brain death.

Capacity - In relation to end-of-life decision-making, a patient has medical decision making capacity if he or she has the ability to understand the medical problem and the risks and benefits of the available treatment options. The patient's ability to understand other unrelated concepts is not relevant. The term is frequently used interchangeably with competency but is not the same. Competency is a legal status imposed by the court.

Cardiopulmonary resuscitation - Cardiopulmonary resuscitation (CPR) is a group of treatments used when someone's heart and/or breathing stops. CPR is used in an attempt to restart the heart and breathing. It may consist only of mouth-to-mouth breathing or it can include pressing on the chest to mimic the heart's function and cause blood to circulate. Electric shock and drugs also are used frequently to stimulate the heart.

Do-Not-Resuscitate (DNR) order - A DNR order is a physician's written order instructing healthcare providers not to attempt cardiopulmonary resuscitation (CPR) in case of cardiac or respiratory arrest. A person with a valid DNR order will not be given CPR under these circumstances. Although the DNR order is written at the request of a person or his or her family, it must be signed by a physician to be valid. A non-hospital DNR order is written for individuals who are at home and do not want to receive CPR.

Emergency Medical Services (EMS): A group of governmental and private agencies that provide emergency care, usually to persons outside of healthcare facilities; EMS personnel generally include paramedics, first responders and other ambulance crew.

Healthcare agent: The person named in an advance directive or as permitted under state law to make healthcare decisions on behalf of a person who is no longer able to make medical decisions.

Hospice - Considered to be the model for quality, compassionate care for people facing a life-limiting illness or injury, hospice and palliative care involve a team-oriented approach to expert medical care, pain management, and emotional and spiritual support expressly tailored to the person's needs and wishes. Support is provided to the persons loved ones as well.

Intubation- Refers to "endotracheal intubation" the insertion of a tube through the mouth or nose into the trachea (windpipe) to create and maintain an open airway to assist breathing.

Life-sustaining treatment - Treatments (medical procedures) that replace or support an essential bodily function (may also be called life support treatments). Life-sustaining treatments include cardiopulmonary resuscitation, mechanical ventilation, artificial nutrition and hydration, dialysis, and other treatments.

Living will - A type of advance directive in which an individual documents his or her wishes about medical treatment should he or she be at the end of life and unable to communicate. It may also be called a "directive to physicians", "healthcare declaration," or "medical directive."

Mechanical ventilation - Mechanical ventilation is used to support or replace the function of the lungs. A machine called a ventilator (or respirator) forces air into the lungs. The ventilator is attached to a tube inserted in the nose or mouth and down into the windpipe (or trachea).

Medical power of attorney - A document that allows an individual to appoint someone else to make decisions about his or her medical care if he or she is unable to communicate. This type of advance directive may also be called a healthcare proxy, durable power of attorney for healthcare or appointment of a healthcare agent. The person appointed may be called a healthcare agent, surrogate, attorney-in-fact or proxy.

Palliative care - A comprehensive approach to treating serious illness that focuses on the physical, psychological, spiritual, and existential needs of the patient. Its goal is to achieve the best quality of life available to the patient by relieving suffering, and controlling pain and symptoms.

Power of attorney – A legal document allowing one person to act in a legal matter on another's behalf regarding financial or real estate transactions.

Respiratory arrest: The cessation of breathing - an event in which an individual stops breathing. If breathing is not restored, an individual's heart eventually will stop beating, resulting in cardiac arrest.

Surrogate decision-making - Surrogate decision-making laws allow an individual or group of individuals (usually family members) to make decisions about medical treatments for a patient who has lost decision-making capacity and did not prepare an advance directive. A majority of states have passed statutes that permit surrogate decision making for patients without advance directives.

Ventilator – A ventilator, also known as a respirator, is a machine that pushes air into the lungs through a tube placed in the trachea (breathing tube). Ventilators are used when a person cannot breathe on his or her own or cannot breathe effectively enough to provide adequate oxygen to the cells of the body or rid the body of carbon dioxide.

Withholding or withdrawing treatment - Forgoing life-sustaining measures or discontinuing them after they have been used for a certain period of time.

Appendix B

Legal & End-of-Life Care Resources Pertaining to Healthcare Advance Directives

LEGAL SERVICES

Legal Service Helpline offers free over the phone legal advice to individuals 60 and older with low to moderate incomes.

Anyone over 60 can get legal information and advice about most issues, including:

- Housing
 - Divorce
 - Power of Attorney and Living Wills
 - Civil issues and more
-
- Must be 60 and older
 - Free for individuals with low to moderate incomes

For more information call: 1-888-895-7873

OR

Visit their website at: www.bals.org

This is a new service available Monday through Friday from 9–2pm. If they are unable to assist persons with legal matters over the phone they will refer them to a licensed agency in the area.

END-OF-LIFE SERVICES

The Department of Elder Affairs (DEA) can put older individuals over the age of 60 in contact with an Area Agency on Aging (AAA) in their area.

AAA can assist with resources and services including, but not limited to:

- Housing
 - Caregiving
 - Respite Care
 - Legal Assistance
 - Home delivered meals
 - Transportation and much more
-
- Must be 60 and older
 - Free for individuals with low to moderate incomes

Visit their website for more information:

<http://elderaffairs.state.fl.us/index.html>

OR

Call their office for an AAA in your region: 1-850-414-2000