

# Current Legal Issues End of Life Planning & Movie and Music Licensing

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# End of Life Planning

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# Policy for Patients Without Living Wills

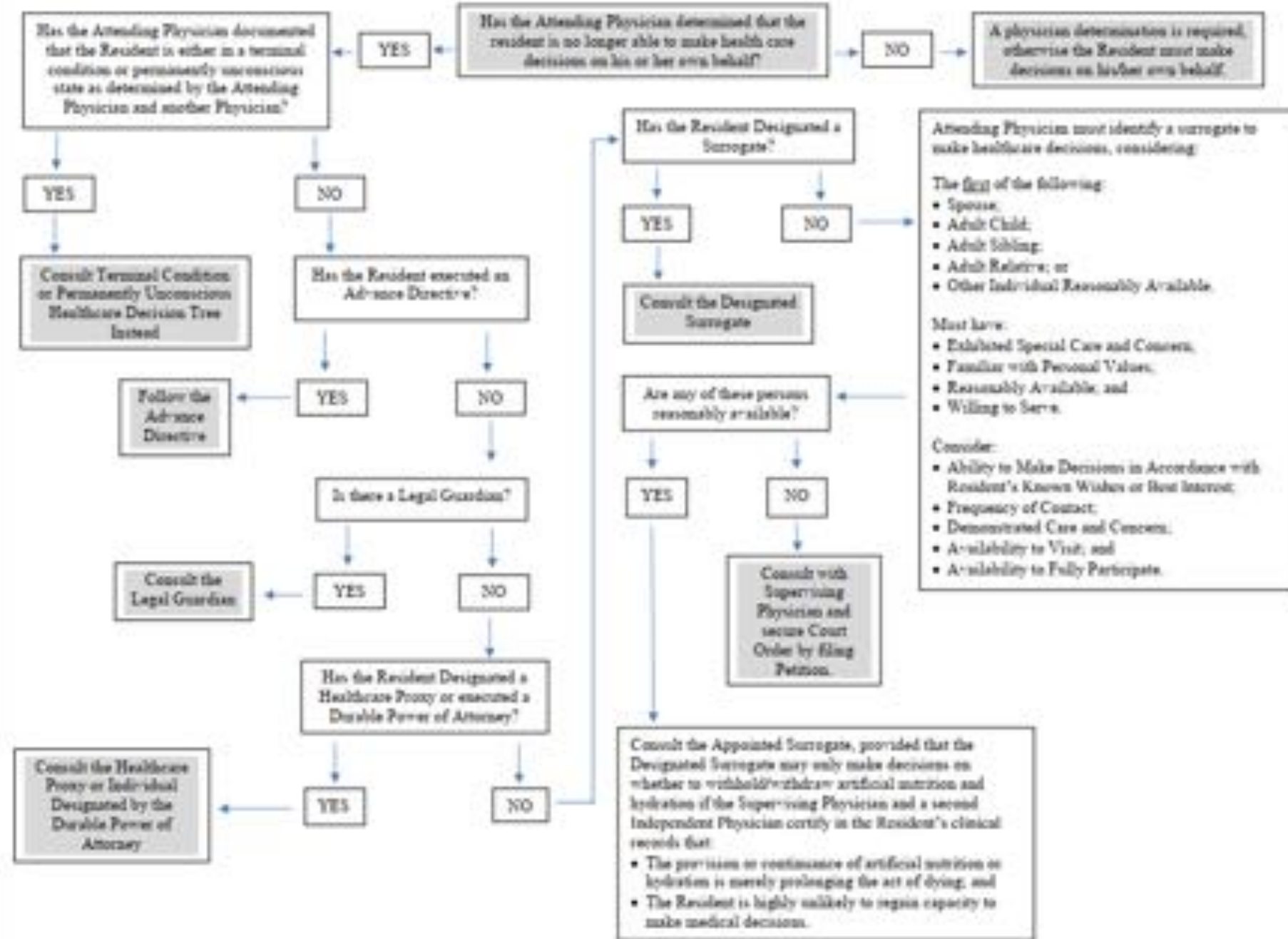
**Policy:** This Facility shall honor the resident's right to refuse life-sustaining treatment in accordance with the Common Law and with the Arkansas Rights for the Terminally Ill Act. This Facility shall also honor the resident's right to revoke his or her advance directive, regardless of whether the resident has capacity to understand the consequences of the decision, in accordance with Arkansas Law.

# Policy for Patients Without Living Wills

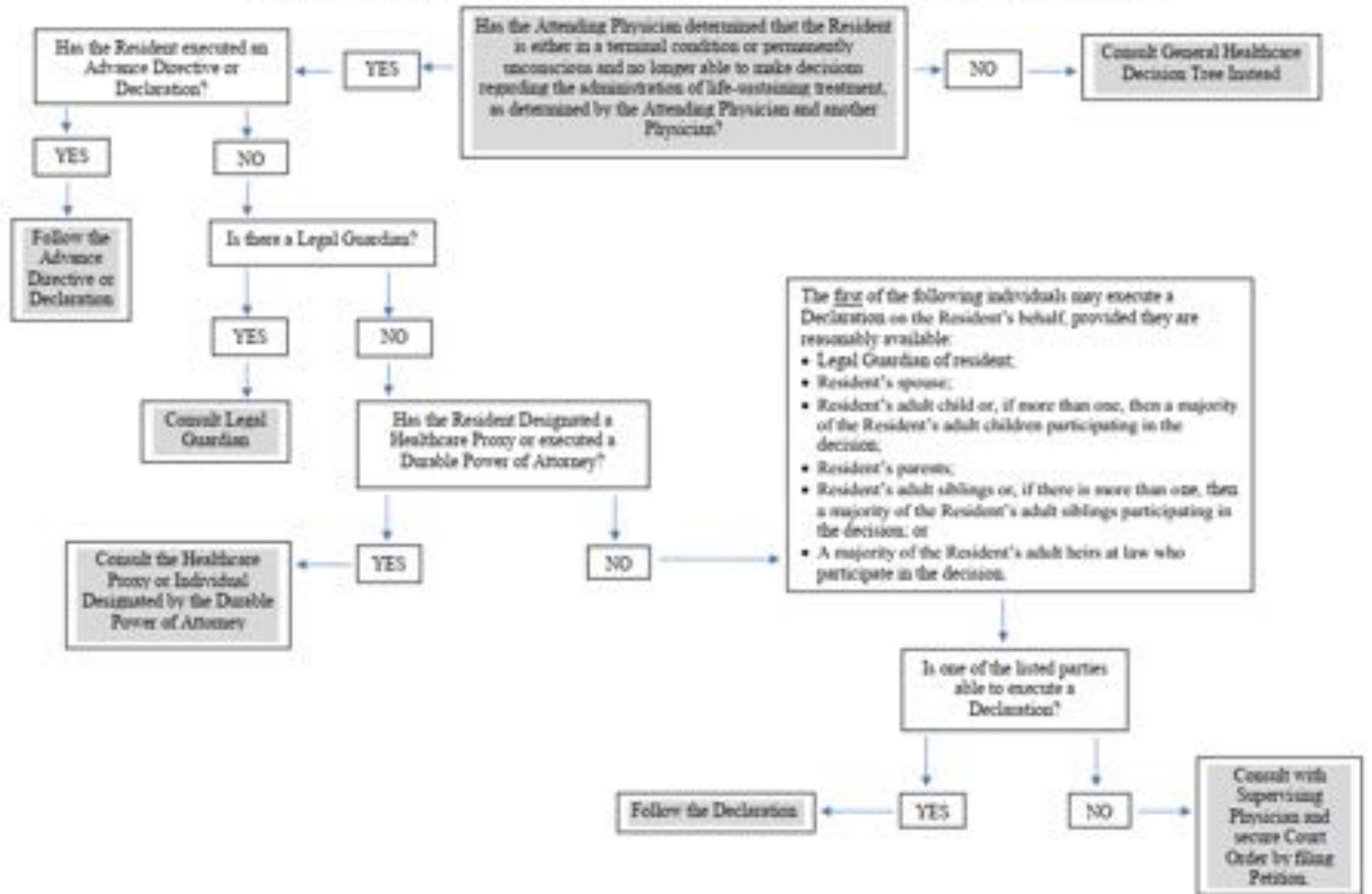
- Who can complete a Living Will on behalf of an Incapacitated Resident?

# General Healthcare Decisions

**General Healthcare Decision Tree**



## Terminal Condition or Permanently Unconscious Healthcare Decision Tree



# Terminal Condition or Permanently Unconscious

# Policy for Patients Without Living Wills

- Withholding Life-Sustaining Treatment
  - When does the Advance Directive become operative?
  - What is the attending physician required to do in order to implement an advance directive to withhold or withdraw life-sustaining treatment?

# Capacity Verification Policy

**Policy:** This Facility shall assess residents to determine whether the resident has capacity to understand the nature of his or her condition and the consequences of medical treatment decisions.

## **Procedure:**

- **Capacity Verification:** assess capacity at admission, then quarterly
- **At Admission:**
  - Complete the Capacity Verification form.
  - If the resident has capacity, interview the resident, otherwise interview the responsible party.



# Living Will And Durable Power of Attorney for Health Care

The Arkansas Bar Association provides forms for Declarations of Living Wills and Durable Power of Attorney for Health Care on their website.

[https://www.uaex.edu/health-living/personal-finance/life-stages-and-events/Living\\_Will\\_and\\_Advanced\\_Directive.pdf](https://www.uaex.edu/health-living/personal-finance/life-stages-and-events/Living_Will_and_Advanced_Directive.pdf)

Residents may also create their own Declaration of Living Will and Durable Power of Attorney for Health Care, but should do so only after consulting with their attorney.

# Advance Directives

What are they? Specific instructions to health care providers, prepared in advance of a specific circumstance or condition, that states the care or treatment a person will receive when the specific circumstance or condition occurs.

An Advance Directive may be revoked by the resident at any time and in any manner.

# Advance Directives

## Facility Checklist:

1. Are systems in place on Advance Directives?
2. Is staff knowledgeable of the systems?
3. Are Advance Directives policies communicated to all newly admitted residents on the day of admission?
4. Is receipt of this information documented?
5. Are all changes in resident's wishes communicated to staff?
6. Are the Resident code status identifiers in place (two methods)?
7. Are we frequently reviewing the code status identifier to ensure consistency?
8. Is staff aware of location of code status identifiers?
9. Is staff aware of what to do if they encounter a resident without vital signs?
10. Is there a record of staff trained individuals capable of providing CPR in place?
11. When scheduling staff, is at least one person per shift, every day, capable of providing CPR?

# Arkansas Physician Order for Life-Sustaining Treatment Act

Ark. Code Ann. §§ 20-6-301-312

- A physician's order for life-sustaining treatment form complements an advance directive by taking the individual's intentions regarding life-sustaining treatment and converting them into a medical order.
- Where there is a conflict between the advance directive and the physician's order for life-sustaining treatment, the most recent document prevails.
- A physician's order for life-sustaining treatment form applies in circumstances not covered by an advance directive.

# Arkansas Physician Order for Life-Sustaining Treatment Act

Ark. Code Ann. §§ 20-6-301-312

- A physician's order for life-sustaining treatment must:
  - Be signed and dated by the patient, or their legal representative, and the physician
  - Immediately actionable as medical orders on a standardized form
  - A conspicuous and clearly identifiable form
  - Recognized, adopted, and honored across treatment settings
  - Must address a range of life-sustaining treatment interventions as well as the patient's preferred intensity of treatment for each intervention
  - Include the name and d.o.b. of the patient, and the patient's intentions regarding care.



# Arkansas Department of Health

Arkansas Department of Health, 1500 W. Walnut Street, Little Rock, Arkansas 72201-1001  
 Governor: Mike Beebe  
 Secretary: Mark A. Walker, M.D., M.P.H., Director for State Health Officer  
<http://www.healthy.arkansas.gov>

## NRMA PERIODIC DISCLOSURE OF POLST DOCUMENTS TO CASE MANAGERS BY PHYSICIAN

### PHYSICIAN ORDERS FOR LIFE-SUSTAINING TREATMENT (POLST)

The following orders, then printed Physician A copy of the completed POLST form is a legally binding, valid physician order. Any orders not completed require full treatment for that patient. POLST requirements as Address Directives and to not intended to replace that document.	Patient Last Name	Date Form Prepared
	Patient First Name	Patient Date of Birth
	Patient Health Number	

<b>A</b>	<b>Cardiopulmonary Resuscitation (CPR)</b>	<b>If patient has no pulse and is not breathing</b>
	<b>NOT ... If patient is NOT in cardiopulmonary arrest, follow orders in Sections B and C.</b>	
<input type="checkbox"/> <b>Attempt Resuscitation/CPR</b> - Goal is to restore a patient's breathing and circulation, allowing full treatment to continue. <input type="checkbox"/> <b>Do Not Attempt Resuscitation/DNR</b> - Goal is patient death.		

<b>B</b>	<b>Medical Interventions:</b>	<b>If patient is found with a pulse and/or is breathing</b>
	<input type="checkbox"/> <b>Full Treatment</b> - primary goal of preserving life by all medically effective means. In addition to treatments described in Complete Treatment and Comfort Treatment, use intubation, advanced airway interventions, mechanical ventilation, and cardiopulmonary resuscitation.	
	<input type="checkbox"/> <b>Selective Treatment</b> - goal of treating medical conditions while avoiding burdensome measures. In addition to treatments described in Complete Treatment, use medical treatments and life support devices. Do not intubate. May use non-invasive positive airway pressure. Generally avoid invasive care. <input type="checkbox"/> <b>Comfort Treatment</b> - primary goal of relieving suffering. Relieve pain and suffering with medications by any route or treatment, use oxygen, suctioning, and medical treatment of airway obstruction. Do not use treatments listed in Full and Selective Treatment unless consistent with comfort goal. Request transfer to hospital <b>only</b> if comfort goal cannot be met in current location.	

<b>C</b>	<b>Additional Orders:</b>
	_____
	_____
	_____

<b>D</b>	<b>Approved with Signature:</b>	
	Discussed with: <input type="checkbox"/> Patient (Patient has Capacity) <input type="checkbox"/> Legal Representative	
	<input type="checkbox"/> Advance Directive - none <input type="checkbox"/> Advance Directive - available and reviewed	
	<input type="checkbox"/> Advance Directive - not available	
	<input type="checkbox"/> No Advance Directive	
	<b>Signature of Physician:</b> (to discuss with patient or the next of kin regarding their care and to discuss with the patient's representative if necessary)	
Print Physician Name	Physician Phone Number	Physician License #
Physician Signature (Required)		Date
<b>Signature of Patient or Legal Representative:</b> (to discuss with patient or the next of kin regarding their care and to discuss with the patient's representative if necessary)		
Print Name		Relationship (with and of patient)
Signature (Required)		Date
Working Address		Phone

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# Federal Copyright Law

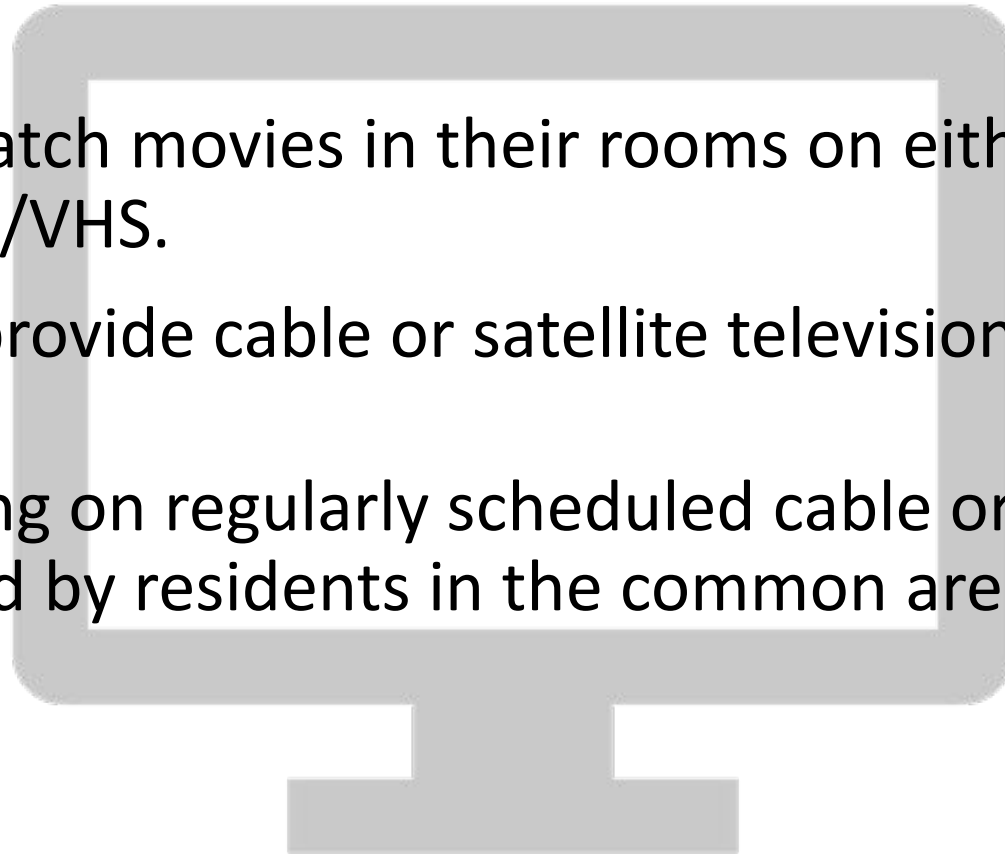
A long term care facility must obtain a public performance license in order to show movies in a common area, such as a theater, lounge, or living room.

Music is similarly protected by requiring a license to play music in certain circumstances.



# Allowed Movie/Television Activities

- Residents may watch movies in their rooms on either cable/satellite television or DVD/VHS.
- The facility may provide cable or satellite television access in the common area.
  - A movie playing on regularly scheduled cable or satellite television may be viewed by residents in the common area.



# Allowed Music Activities

- The facility may play broadcast radio on a radio system commonly used in a private home.
- The facility may play a for-business streaming service on a radio or a speaker system.
  - Panera for Business
  - Mood Media



# Allowed Performance Activities

- The facility may allow free volunteer performances.
  - Church Groups, Christmas Caroling, etc.
- The facility may provide paid-for live professional performances of Elvis impersonators *only* if the Elvis impersonator is licensed or registered by Elvis's estate.



# NOT Allowed – Movies/Television

- The facility may ***not*** play movies in the common area via DVD/VHS or streaming media.
  - Netflix, Hulu, etc.
- The facility may ***not*** allow access to closed circuit television in residents' rooms.
  - Example: a facility cannot broadcast a movie across residents' rooms via a television channel.
- The facility may ***not*** record television shows or movies to replay at a later time in a common area.

# **NOT** Allowed – Music

- The facility may *not* play or broadcast music on a CD or iTunes.



# NOT Allowed - Performances

- The facility may ***not*** provide paid-for live professional performances by *any* performer, except Elvis impersonators.

# Licensing Agency Contact

If a licensing agency representative contacts you regarding public performances of movies or music:

- Assure the representative that your facility is familiar with relevant laws and that you believe you are in full compliance.
  - After providing the assurance, politely ask them to leave or end the call. The representative does not have any right to be on the premises.
- Do not answer the representative's questions without consulting with legal counsel. Reassure the representative that you believe the facility is in compliance with the law.
- Follow-up with your legal counsel regarding the visit to confirm compliance at your facility.



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