



Understanding Advance Directives



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What are advance directives?

“Advance directives” are legal documents that allow you to plan and make your own end-of-life wishes known in the event that you are unable to communicate. Advance directives consist of (1) a living will and (2) a medical (healthcare) power of attorney. A living will describes your wishes regarding medical care. With a medical power of attorney, you can appoint a person to make healthcare decisions for you in case you are unable to speak for yourself.

What is a living will?

A living will is an advance directive that guides your family and healthcare team through the medical treatment you wish to receive if you are unable to communicate your wishes. According to your state’s living will law, this document is considered legal as soon as you sign it and a witness signs it — if that is required. A living will goes into effect when you are no longer able to make your own decisions.

What is a medical power of attorney?

A medical power of attorney is the advance directive that allows you to select a person you trust to make decisions about your medical care if you are temporarily or permanently unable to communicate and make decisions for yourself. This includes not only decisions at the end of your life, but also in other medical situations. This document is also known as a “healthcare proxy,” “appointment of healthcare agent” or “durable power of attorney for healthcare.” This document goes into effect when your physician declares that you are unable to make your own medical decisions. The person you select can also be known as a healthcare agent, surrogate, attorney-in-fact or healthcare proxy.

Who should I select to be my medical power of attorney?

You should select someone you trust, such as a close family member or good friend who understands your wishes and feels comfortable making healthcare decisions for you. You should have ongoing conversations with this person to talk about your wishes at the end of life. Make sure your medical power of attorney feels comfortable and confident about the type of medical care you want to receive.

Most state laws prevent your doctor and any professional caregiver from being assigned as your healthcare agent. You can also select a second agent as an alternate in case your first healthcare agent is unwilling or unable to serve.

What do I need to know about end-of-life decisions to prepare my advance directive?

Learn about life-sustaining treatments.

Life-sustaining treatments are specific medical procedures that support the body and keep a person alive when the body is not able to function on its own. Making the decision about whether or not to have life-sustaining treatments can be a difficult decision depending on your situation.

You might want to accept life-sustaining treatments if they will help to restore normal functions and improve your condition. However, if you are faced with a serious life-limiting condition, you may not want to prolong your life with life-sustaining treatment. The most common end-of-life medical decisions that you, family members or an appointed healthcare agent must make involve:

- Cardiopulmonary Resuscitation (CPR)
- Do Not Resuscitate Order (DNR)
- Do Not Intubate Order (DNI)
- Artificial Nutrition and Hydration

What is cardiopulmonary resuscitation (CPR)?

Cardiopulmonary resuscitation (CPR) is a group of procedures used when your heart stops (cardiac arrest) or breathing stops (respiratory arrest). For cardiac arrest, the treatment may include chest compressions, electrical stimulation, or use of medication to support or restore the heart’s ability to function. For respiratory arrest, treatment may include insertion of a tube through your mouth or nose into trachea (wind pipe that connects the throat to the lungs) to artificially support or restore your breathing function. The tube placed in your body is connected to a mechanical ventilator.

What is a Do Not Resuscitate (DNR) order?

A Do Not Resuscitate (DNR) order is a written physician’s order that prevents the healthcare team from initiating CPR. The physician writes and signs a DNR at your request or at the request of your family or appointed healthcare agent if you do not want to receive CPR in the event of cardiac or respiratory arrest. The DNR order must be signed by a doctor, otherwise it cannot be honored.

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DNR orders:

- Can be cancelled at any time by letting the doctor who signed the DNR know that you have changed your decision.
- Remain in effect if you transfer from one healthcare facility to another. However, consult the arrival facility's policy to make sure. Also, the DNR may not be honored if you are discharged from the facility to your home if your state does not have an out-of-hospital DNR policy.
- May not be honored during surgery. This is something very important to discuss with your surgeon and anesthesiologist before surgery so your wishes are honored.
- Should be posted in the home if that is where you are being cared for.

If there is no DNR order, the healthcare team will respond to the emergency and perform CPR. The team will not have time to consult a living will, the family, the patient's healthcare agent or the patient's doctors if they are not present.

What is a Do Not Intubate (DNI) order?

When you request a DNR order, your physician may ask if you also wish to have a "Do Not Intubate" order. Intubation is the placement of a tube into the nose or mouth in order to have it enter your windpipe (trachea) to help you breathe when you cannot breathe adequately on your own. Intubation might prevent a heart attack or respiratory arrest.

Refusal of intubation does not mean refusal of other techniques of resuscitation. If you do not want mechanical ventilation (breathing), you must discuss intubation because it may be included as part of a DNR order. Even if you have completed a DNR order, that does not mean that you have refused to be intubated. If you do not want life mechanically sustained, you must discuss your decision about intubation with your doctor.

What is artificial nutrition and hydration?

Artificial nutrition and hydration are treatments that allow a person to receive nutrition (food) and hydration (fluid) when they are no longer able to take them by mouth. This treatment can be given to a person who cannot eat or drink enough to sustain life. When someone with a serious or life-limiting illness is no longer able to eat or drink, it usually means that the body is beginning to stop functioning as a result of the illness.

How can I prepare my advance directive?

You can fill out a living will and medical power of attorney form without a lawyer. The National Hospice and Palliative Care Organization, your state hospice organization, local hospitals, public health departments, state bar associations or state aging offices provide state-specific forms and instructions. (A copy of the Pennsylvania Living Will and Durable Healthcare Power of Attorney are included in this booklet.) It is very important that you use advance directives forms specifically created for your state, so that they are legal. Read the forms carefully and make sure you follow legal requirements determined by your state. You may need to have a witness signature and get the forms notarized (signed by a notary public).

Keep your completed advance directive in an easily accessible place and give photocopies to your primary medical power of attorney and your secondary, alternate agent.

Can healthcare professionals refuse to honor my advance directive?

Some healthcare professionals may choose to ignore what is written in your living will if they believe that what is written is against your best interest or for moral or religious reasons. In some cases, there may be a misunderstanding of the law, medical ethics or professional responsibilities. It is important for you to know if your doctor will honor your request. Bring your completed living will to your next healthcare appointment and ask your doctor if he or she has questions or concerns.

Who would decide about my medical care if I did not complete an advance directive?

If you are unable to make decisions, healthcare professionals must consult your family members. Some states have decision-making laws to identify individuals who may make decisions on your behalf when you do not have an advance directive, such as your spouse, parents or adult children.

Does my advance directive include my wishes about organ donation, cremation or burial?

Some states may include your wishes about whether you want to be an organ donor as part of the advance directive. If it is not included, you can still write down your decision about organ donation. However, you should fill out a specific form for that purpose. You should let your loved ones know if you wish to be buried or cremated.

Combined Living Will & Health Care Power of Attorney

Example Form from Pennsylvania Act 169 of 2006

PART I

Introductory Remarks on Health Care Decision Making

You have the right to decide the type of health care you want.

Should you become unable to understand, make or communicate decisions about medical care, your wishes for medical treatment are most likely to be followed if you express those wishes in advance by:

- (1) naming a health care agent to decide treatment for you; and
- (2) giving health care treatment instructions to your health care agent or health care provider.

An advance health care directive is a written set of instructions expressing your wishes for medical treatment. It may contain a health care power of attorney, where you name a person called a “health care agent” to decide treatment for you, and a living will, where you tell your health care agent and health care providers your choices regarding the initiation, continuation, withholding or withdrawal of life-sustaining treatment and other specific directions.

You may limit your health care agent’s involvement in deciding your medical treatment so that your health care agent will speak for you only when you are unable to speak for yourself or you may give your health care agent the power to speak for you immediately. This combined form gives your health care agent the power to speak for you only when you are unable to speak for yourself. A living will cannot be followed unless your attending physician determines that you lack the ability to understand, make or communicate health care decisions for yourself, and you are either permanently unconscious or you have an end-stage medical condition, which is a condition that will result in death despite the introduction or continuation of medical treatment. You, and not your health care agent, remain responsible for the cost of your medical care.

If you do not write down your wishes about your health care in advance, and if later you become unable to understand, make or communicate these decisions, those wishes may not be honored because they may remain unknown to others.

A health care provider who refuses to honor your wishes about health care must tell you of its refusal and help to transfer you to a health care provider who will honor your wishes.

You should give a copy of your advance health care directive (a living will, health care power of attorney or a document containing both) to your health care agent, your physicians, family members and others whom you expect would likely attend to your needs if you become unable to understand, make or communicate decisions about medical care. If your health care wishes change, tell your physician and write a new advance health care directive to replace your old one. It is important in selecting a health care agent that you choose a person you trust who is likely to be available in a medical situation where you cannot make decisions for yourself. You should inform that person that you have appointed him or her as your health care agent and discuss your beliefs and values with him or her so that your health care agent will understand your health care objectives.

You may wish to consult with knowledgeable, trusted individuals such as family members, your physician or clergy when considering an expression of your values and health care wishes. You are free to create your own advance health care directive to convey your wishes regarding medical treatment. The following form is an example of an advance health care directive that combines a health care power of attorney with a living will.

Notes About the Use of this Form

If you decide to use this form or create your own advance health care directive, you should consult with your physician and your attorney to make sure that your wishes are clearly expressed and comply with the law.

If you decide to use this form but disagree with any of its statements, you may cross out those statements.

You may add comments to this form or use your own form to help your physician or health care agent decide your medical care.

This form is designed to give your health care agent broad powers to make health care decisions for you whenever you cannot make them for yourself. It is also designed to express a desire to limit or authorize care if you have an end-stage medical condition or are permanently unconscious. If you do not desire to give your health care agent broad powers, or you do not wish to limit your care if you have an end-stage medical condition or are permanently unconscious, you may wish to use a different form or create your own. You should also use a different form if you wish to express your preferences in more detail than this form allows or if you wish for your health care agent to be able to speak for you immediately. In these situations, it is particularly important that you consult with your attorney and physician to make sure that your wishes are clearly expressed.

This form allows you to tell your health care agent your goals if you have an end-stage medical condition or other extreme and irreversible medical condition, such as advanced Alzheimer's disease. Do you want medical care applied aggressively in these situations or would you consider such aggressive medical care burdensome and undesirable?

You may choose whether you want your health care agent to be bound by your instructions or whether you want your health care agent to be able to decide at the time what course of treatment the health care agent thinks most fully reflects your wishes and values.

If you are a woman and diagnosed as being pregnant at the time a health care decision would otherwise be made pursuant to this form, the laws of this Commonwealth prohibit implementation of that decision if it directs that life-sustaining treatment, including nutrition and hydration, be withheld or withdrawn from you, unless your attending physician and an obstetrician who have examined you certify in your medical record that the life-sustaining treatments:

- will not maintain you in such a way as to permit the continuing development and live birth of the unborn child;
- will be physically harmful to you; or
- will cause pain to you that cannot be alleviated by medication.

A physician is not required to perform a pregnancy test on you unless the physician has reason to believe that you may be pregnant.

Pennsylvania law protects your health care agent and health care providers from any legal liability for following in good faith your wishes as expressed in the form or by your health care agent's direction. It does not otherwise change professional standards or excuse negligence in the way your wishes are carried out. If you have any questions about the law, consult an attorney for guidance.

This form and explanation is not intended to take the place of specific legal or medical advice for which you should rely upon your own attorney and physician.

PART II

Durable Health Care Power of Attorney

I _____, of _____ County, Pennsylvania, appoint the person named below to be my health care agent to make health and personal care decisions for me.

Effective immediately and continuously until my death or revocation by a writing signed by me or someone authorized to make health care treatment decisions for me, I authorize all health care providers or other covered entities to disclose to my health care agent, upon my agent's request, any information, oral or written, regarding my physical or mental health, including, but not limited to, medical and hospital records and what is otherwise private, privileged, protected or personal health information, such as health information as defined and described in the Health Insurance Portability and Accountability Act of 1996 (Public Law 104—191, 110 Stat. 1936), the regulations promulgated thereunder and any other State or local laws and rules. Information disclosed by a health care provider or other covered entity may be redisclosed and may no longer be subject to the privacy rules provided by 45 C.F.R. Pt. 164.

The remainder of this document will take effect when and only when I lack the ability to understand, make or communicate a choice regarding a health or personal care decision as verified by my attending physician. My health care agent may not delegate the authority to make decisions.

My health care agent has all of the following powers subject to the health care treatment instructions that follow in Part III (cross out any powers you do not want to give your health care agent):

1. To authorize, withhold or withdraw medical care and surgical procedures.
2. To authorize, withhold or withdraw nutrition (food) or hydration (water) medically supplied by tube through my nose, stomach, intestines, arteries or veins.
3. To authorize my admission to or discharge from a medical, nursing, residential or similar facility and to make agreements for my care and health insurance for my care, including hospice and/or palliative care.
4. To hire and fire medical, social service and other support personnel responsible for my care.
5. To take any legal action necessary to do what I have directed.
6. To request that a physician responsible for my care issue a do-not-resuscitate (DNR) order, including an out-of-hospital DNR order, and sign any required documents and consents.

Appointment of Health Care Agent

I appoint the following health care agent: _____

Health Care Agent (Name and relationship): _____

Address: _____

Telephone Number: Home _____ Work _____

E-Mail: _____

If you do not name a health care agent, health care providers will ask your family or an adult who knows your preferences and values for help in determining your wishes for treatment. Note that you may not appoint your doctor or other health care provider as your health care agent unless related to you by blood, marriage or adoption.

If my health care agent is not readily available or if my health care agent is my spouse and an action for divorce is filed by either of us after the date of this document, I appoint the person or persons named below in the order named. (It is helpful, but not required, to name alternative health care agents.)

First Alternate Health Care Agent (Name and relationship): _____

Address: _____

Telephone Number: Home _____ Work _____

E-Mail: _____

Second Alternate Health Care Agent (Name and relationship): _____

Address: _____

Telephone Number: Home _____ Work _____

E-Mail: _____

Guidance for Health Care Agent (optional)

Goals

If I have an end-stage medical condition or other extreme irreversible medical condition, my goals in making medical decisions are as follows (insert your personal priorities such as comfort, care, preservation of mental function, etc.):

Severe Brain Damage or Brain Disease

If I should suffer from severe and irreversible brain damage or brain disease with no realistic hope of significant recovery, I would consider such a condition intolerable and the application of aggressive medical care to be burdensome. I therefore request that my health care agent respond to any intervening (other and separate) life-threatening conditions in the same manner as directed for an end-stage medical condition or state of permanent unconsciousness as I have indicated below.

Initials _____ I agree

Initials _____ I disagree

PART III

Health Care Treatment Instructions in the Event of End-Stage Medical Condition or Permanent Unconsciousness (Living Will)

The following health care treatment instructions exercise my right to make my own health care decisions. These instructions are intended to provide clear and convincing evidence of my wishes to be followed when I lack the capacity to understand, make or communicate my treatment decisions:

If I have an end-stage medical condition (which will result in my death, despite the introduction or continuation of medical treatment) or am permanently unconscious such as an irreversible coma or an irreversible vegetative state and there is no realistic hope of significant recovery, all of the following apply (cross out any treatment instructions with which you do not agree):

1. I direct that I be given health care treatment to relieve pain or provide comfort even if such treatment might shorten my life, suppress my appetite or my breathing, or be habit forming.
2. I direct that all life-prolonging procedures be withheld or withdrawn.
3. I specifically do not want any of the following as life prolonging procedures: (If you wish to receive any of these treatments, write "I do want" after the treatment)

heart-lung resuscitation (CPR) _____

mechanical ventilator (breathing machine) _____

dialysis (kidney machine) _____

surgery _____

chemotherapy _____

radiation treatment _____

antibiotics _____

Please indicate whether you want nutrition (food) or hydration (water) medically supplied by a tube into your nose, stomach, intestine, arteries, or veins if you have an end-stage medical condition or are permanently unconscious and there is no realistic hope of significant recovery. (Initial only one statement).

Tube Feedings

_____ I want tube feedings to be given

OR

No Tube Feedings

_____ I do not want tube feedings to be given

Health Care Agent's Use of Instructions (Initial one option only)

_____ My health care agent must follow these instructions.

OR

_____ These instructions are only guidance. My health care agent shall have final say and may override any of my instructions. (Indicate any exceptions)

If I did not appoint a health care agent, these instructions shall be followed.

Legal Protection

Pennsylvania law protects my health care agent and health care providers from any legal liability for their good faith actions in following my wishes as expressed in this form or in complying with my health care agent's direction. On behalf of myself, my executors and heirs, I further hold my health care agent and my health care providers harmless and indemnify them against any claim for their good faith actions in recognizing my health care agent's authority or in following my treatment instructions.

Organ Donation (Initial one option only)

_____ I consent to donate my organs and tissues at the time of my death for the purpose of transplant, medical study or education. (Insert any limitations you desire on donation of specific organs or tissues or uses for donation of organs and tissues.)

OR

_____ I do not consent to donate my organs or tissues at the time of my death.

Signature

Having carefully read this document, I have signed it this _____ day of _____, 20_____,
revoking all previous health care powers of attorney and health care treatment instructions.

(Sign full name here for health care power of attorney and health care treatment instructions.)

WITNESS: _____

WITNESS: _____

Two witnesses at least 18 years of age are required by Pennsylvania law and should witness your signature in each other's presence. A person who signs this document on behalf of and at the direction of a principal may not be a witness. (It is preferable if the witnesses are not your heirs, nor your creditors, nor employed by any of your health care providers.)

Notarization (optional)

(Notarization of document is not required by Pennsylvania law, but if the document is both witnessed and notarized, it is more likely to be honored by the laws of some other states.)

On this _____ day of _____, 20_____, before me personally appeared the aforesaid declarant and principal, to me known to be the person described in and who executed the foregoing instrument and acknowledged that he/she executed the same as his/her free act and deed.

In witness whereof, I have hereunto set my hand and affixed my official seal in the County of _____
_____, State of _____ the day and year first above written.

Notary Public

My commission expires

