
Advance Directives – The Patient’s Right to Decide

All adult individuals in hospitals, nursing homes and other health care settings have certain rights. For example, the right to confidentiality of personal and medical records and to know what treatment one will receive.

You have the right to fill out a paper known as an “Advance Directive.” Your words explain in advance what kind of treatment you want or do not want under special, serious medical conditions, which might prevent you from telling your doctor how you want to be treated. For example, if you were in a coma and taken to a hospital, would you want the hospital’s medical staff to know your wishes about decisions affecting your treatment?

This article answers some questions related to a federal law that took effect in 1991. That law requires most hospitals, nursing facilities, hospices, home health care programs and health maintenance organizations (HMO’s) or health plans to give you information about advance directives and your legal choices in making decisions about medical care. The law is intended to increase your control over medical treatment decisions.

This information can help you make decisions before treatment. Because this is an important matter, you should talk to family, close friends and your Doctor before deciding whether you want an advance directive.

Finally, remember that state laws differ about legal choices available to individuals for treatment options that can be honored by hospitals and other health care providers and organizations. These health care professionals should have information for you on your state’s advance directive law.

What is an Advance Directive?

It is a written statement that you complete in advance of serious illness. It explains how you want medical decisions made. The two most common forms of advance directives are:

- Living Will
- Durable Power of Attorney for Health Care
- Others include: POLST (Provider Order Life Sustaining Treatment) and 5 wishes.

An Advance Directive allows you to state your choices for health care (or to name someone to make those choices for you) if you are unable to make decisions about your medical treatment. In short, an Advance Directive can enable you to make decisions about your future medical treatment. You decide the treatment you want and do not want.

What is a Living Will?

A Living Will generally states the kind of medical care you want (or don't want) if you become unable to make your own decision. It is called a Living Will because it takes effect while you are still living.

Most states have a version of a living will form. You can complete and sign a pre-printed living will form available in your own community. You can draw up your own form or write a statement of your preferences for treatment. You may also wish to speak to an attorney or your Doctor to be sure you have completed the document to reflect your wishes in a clear way that will be understood and followed.

What is a Durable Power of Attorney for Health Care?

In many states a Durable Power of Attorney for Health Care is a signed, dated and witnessed paper. This document names another person such as a husband, wife or close friend as your agent or proxy to make medical decisions for you if you become unable to make them for yourself. You can include instructions about any treatment you want or wish to avoid. Some states have specific laws allowing a health care power of attorney and provide printed forms.

Should you use a Living Will or a Durable Power of Attorney for Health Care?

In some states, laws may make it preferable to have one or the other. It may also be possible to have both, or to combine them in one document that describes treatment choices in a variety of situations (ask your doctor about these). That one document names someone (called your agent or proxy) to make decisions for you, should you be unable to make decisions for yourself.

How can you get more information about advance directives?

To obtain an Advance Directive form, attend a workshop, or to receive free assistance in completing an advance directive, call the California Health Decisions at:
(714) 347-7921

You may also visit:

https://www.americanbar.org/groups/public_education/resources/law_issues_for_consumers/directive_what.html for more information on advance directives.