

Medical Care Decisions and Advance Directives

What You Should Know

On December 1, 1991, Congress passed a law requiring that all hospitals give information about advance directives to all patients who are admitted.

What are my rights? Who decides about my medical care or treatment?

If you are 18 or older and mentally competent, you have the right to make decisions about your medical treatment. Talk to your doctor about any treatments. You have the right to say “yes” or “no” to any treatments. If you want to make decisions about your health care even when you no longer can, you will need an advance directive.

What is an advance directive?

An advance directive is a set of directions you give about the health care you want if you lose the ability to make decisions for yourself. North Carolina has two ways for you to make a formal advance directive; a living will and/or a health care power of attorney.

Do I have to have an advance directive and what happens if I don't?

Whether or not to make a living will and/or health care power of attorney is your choice. If you do not have an advance directive and become unable to make your own decisions, your doctor will consult with someone close to you about your care.

What is a living will?

In North Carolina, a living will is a document that tells others that you want to die a natural death if you are terminally and incurably sick or in a persistent vegetative state from which you will not recover. In a living will, you can direct your doctor not to use heroic treatments that would prolong your life (for example, using a breathing machine, such as a respirator or ventilator), or to stop such treatments if they have been started. You can also direct your doctor not to give you food and water through a tube (“artificial nutrition or hydration” or to stop such feedings if they were begun by other caregiver). You will continue to receive care to keep you comfortable.

What is a health care power of attorney?

In North Carolina, you can name a person to make medical care decisions for you if you later become unable to decide for yourself. This person is called your “health care agent.” In this legal document, you name who you want your agent to be. You can say what medical treatments you would want and what you would not want. Your agent then knows what choices you would make.

How should I choose a health care agent?

You should choose someone you trust. Discuss your wishes with this person before you identify him or her as your health care agent. A health care agent does not have to be a relative.

How do I make an advance directive?

Several guidelines exist to assist you in making a formal living will and/or a health care power of attorney. These guidelines are to protect you and ensure that your wishes are clear to the doctor or other provider who may be asked to carry them out. Both a living will and health care power of attorney need to be written and signed by you while you are still able to understand your condition and treatment choices and to make your wishes known. Both advance directives need to be notarized and witnessed by two individuals. A witness must be at least 18 years old and may not be any of the following: related to you by blood or marriage; your doctor or employed by Duke Medical Center; an employee of a nursing home where you reside; and/or in a position to inherit from your estate upon your death.

Are there forms I can use to make an advance directive?

Yes. There is a living will form and a health care power of attorney form for your use. Copies of these are attached to this document. These forms meet all of the rules for a formal advance directive. Using these special forms is the best way to state your wishes.

When does an advance directive go into effect?

A living will goes into effect when you are reaching the end of life and cannot be cured, or when you are in a persistent vegetative state. The powers granted by your health care power of attorney go into effect when your doctor states in writing that you are not able to make or communicate your health care choices.

What happens if i change my mind?

You can cancel your living will either by destroying all copies of it or by informing your doctor that you want to cancel it. You can change your health care power of attorney by signing another one or by telling your doctor and each health care agent you named of the change.

Whom should I talk to about an advance directive?

It is important to talk with those closest to you about an advance directive and the type of health care you would like to receive. Your doctor can answer any medical questions. A lawyer can answer questions about the law. Some people discuss the decision with clergy or other trusted advisors.

Where should I keep my advance directive?

Keep a copy in a safe place where your family members can get it in an emergency. Let your family know where it is. Provide copies to your family, your doctor or other health care provider, your health care agent, and any close friends who might be asked about your care should you become unable to make decisions. If you are going to be admitted to the hospital, take a copy with you to be placed in your medical record.

What if I have an advance directive from another state?

An advance directive from another state may not meet all of North Carolina's rules. To be sure that your advance directive is valid in North Carolina, you should make an advance directive in North Carolina.

Do I have to complete an advance directive?

The law does not require you to complete either of these documents nor are these documents necessary for you to receive any medical care.

What resources do I have to help me make decisions about advance directives?

Many individuals consult with their family members, friends, physicians and clergy to better understand the decisions that need to be made. Any critical decision is easier to make if discussed in advance.

How do I complete an advance directive?

Complete the attached forms, and have them notarized. When you visit the hospital, bring them with you.