

ADVANCE DIRECTIVES FOR HEALTH CARE

This brochure is provided courtesy of the
Iowa Hospital Association, the Iowa Medical Society and the Iowa State Bar Association

Deciding today about your health care in the future...

Competent adults have the right to refuse or accept medical treatment after being informed of the procedures and risks.

However, there is growing concern over how medical care decisions will be made when people are unable to make decisions for themselves. Today, medical technology presents us with a number of treatments that prolong life. Some people do not wish such treatment; others wish to take advantage of every procedure available. Often, decisions must be made when the patient is no longer able to state preferences.

A growing number of people are stating their health care choices in writing while they are still able to make these decisions.

These legal documents are called Advance Directives, more commonly known as a Living Will and Durable Power of Attorney for Health Care. This brochure summarizes Iowa law and answers questions about Advance Directives. You should talk to your physician about the effects of withholding or withdrawing different treatments. It is also a good idea to discuss your decision with your family. While it is not necessary to consult an attorney for your Advance Directive to be a legally binding document, it is often helpful.

What is an Advance Directive?

An Advance Directive is a document stating your health care choices or naming someone to make the choices for you if you become unable to do so.

Iowa law provides two types of Advance Directives...

- I. The Declaration Relating to Use of Life-Sustaining Procedures, known as a Living Will.
- II. The Durable Power of Attorney for Health Care.

Can health care decisions be made on my behalf without a Living Will or Durable Power of Attorney for Health Care?

Yes. If you have not executed an Advance Directive and are unable to make decisions, others will make health care decisions for you, in consultation with your physician. These decision makers should be guided by your intentions. However, with a Living Will or Durable Power of Attorney for Health Care, you have greater assurance your wishes will be carried out.

I. LIVING WILLS

What is a Living Will?

A Living Will is a document directing your physician that certain life-sustaining procedures should be withheld or withdrawn if you are in a terminal condition and unable to decide for yourself.

What is a life-sustaining procedure?

A life-sustaining procedure is any mechanical or artificial means which sustains, restores or supplants a vital body function and which would only prolong the dying process for a terminal patient. A mechanical respirator is an example.

Iowa's Living Will law does not permit withholding or withdrawing nutrition or hydration (food or water) unless they are provided by feeding tube or intravenous feeding.

In addition, medication or medical procedures necessary to provide comfort or ease pain are not life-sustaining procedures and would not be withheld under a Living Will.

What is a terminal condition?

A terminal condition is an irreversible condition that, without life-sustaining procedures, will result in death in a relatively short time or a state of permanent unconsciousness from which there is no likely recovery.

The determination of terminal condition must be made by the attending physician following consultation with another physician.

When does a Living Will take effect?

A Living Will takes effect only when you have a terminal condition and are unable to make decisions.

Special note on Living Wills executed before April 23, 1992

The Iowa General Assembly made changes to the Living Will law in 1992. If you completed a Living Will before April 23, 1992 (the effective date of the new law), your Living Will may not allow for withdrawal or withholding of intravenous feeding or feeding tubes. It may not apply if you are not about to die soon but are in a permanent state of unconsciousness with no likely hope of future recovery. It will only apply to those situations if you specifically stated it should apply in those cases. If you did not specify those cases, you may want to complete a new Living Will. You should consult your attorney for advice.

II. DURABLE POWER OF ATTORNEY FOR HEALTH CARE

What Is a Durable Power of Attorney for Health Care?

A Durable Power of Attorney for Health Care is a document through which you name another person known as your "Attorney-in-fact" or "agent" to make health care decisions for you if you are unable to make them. This agent is required to make decisions according to directions you may provide in the document or otherwise. If your wishes are not known, your agent shall make decisions in your best interests.

How does a Durable Power of Attorney for Health Care differ from a Living Will?

Both documents apply only when you are unable to make health care decisions.

A Living Will applies only if it is your intention to have life-sustaining procedures withheld or withdrawn and you are in a terminal condition. It is a directive to your physician.

A Durable Power of Attorney for Health Care lets you name an agent to make health care decisions in accordance with your wishes. If you wish, you may specify the health care you want or don't want. Its application is not restricted to patients with a terminal condition or to decisions about life-sustaining procedures.

Who should I name to be my agent?

The person you name in a Durable Power of Attorney for Health Care should be someone you trust and who has consented to act as your agent.

The law does not allow your agent to be your doctor, nurse or other person providing health care to you on the date you sign the Durable Power of Attorney for Health Care; or any employee of the doctor, nurse or any hospital or health care facility providing care to you on the date you sign the Durable Power of Attorney for Health Care unless that employee is a close relative.

What if my agent is unable to serve?

It is advisable to name an alternate agent in case the person you appoint becomes unable or unwilling to act in your behalf.

What decisions can my agent make?

Your agent can make any health care decision you can make regarding treatment of your physical or mental condition. In all cases, your agent must make decisions in accordance with your wishes. If you wish, you may limit the scope of your agent's authority.

Can my agent consent to withholding or withdrawing nutrition or hydration (food or water)?

Yes. Your agent may make decisions about whether to withhold or withdraw a feeding tube or intravenous feeding.

How will my agent know my wishes?

It is important to discuss your wishes with the person who will be your agent. You may also state your wishes on the Durable Power of Attorney for Health Care form. If your agent doesn't know your wishes, he or she has a duty to act in your best interest considering your condition and prognosis.

III. COMPLETING THE DOCUMENTS

Should I have both a Living Will and a Durable Power of Attorney for Health Care?

That depends. Through a Durable Power of Attorney for Health Care, your agent can make all your health care decisions including decisions which would be covered by a Living Will.

If you know you want life-sustaining procedures withheld or withdrawn when you are in a terminal condition, you may also want to sign a Living Will since it provides direction to your physician and you will not have to rely on an agent to communicate those wishes.

If you are uncertain about which documents are best for you, consult your physician or attorney for guidance.

Where can I get a Living Will or Durable Power of Attorney for Health Care form?

The Iowa State Bar Association has prepared a form containing both Advance Directives. Single copies are available free by filling out the form at the back of this brochure and sending it, along with a stamped, self-addressed business size envelope to: Iowa State Bar Association, P.O. Box 4906, Des Moines, Iowa 50306.

How do I execute a Durable Power of Attorney for Health Care or a Living Will?

The Iowa State Bar Association forms contain explicit instructions on how to execute these Advance Directives.

Requirements for a Living Will and a Durable Power of Attorney for Health Care are the same.

You must first complete the date of execution on your form. Then, either have two people over age 18 witness your signature and sign the witness form OR use a notary. If you use a notary, witnesses are not required.

Someone who has been appointed as your agent, is treating you as a patient or is an employee of anyone treating you is ineligible to act as a witness. At least one of the witnesses must not be related to you by blood, marriage or adoption.

What should I do with these documents?

Put the original in a safe but accessible place. Provide copies to family members and, if a Durable Power of Attorney for Health Care has been executed, to the appointed agent and alternates. Give a copy to your physician. You might wish to file a copy with your local hospital, if it accepts such forms.

What if a physician is unwilling to comply with my Living Will or my agent's decisions?

If a physician or administrator of a health care facility is unwilling to comply with the wishes in a Living Will or those made by an agent, the physician or administrator must take all reasonable steps to arrange to transfer you to another physician or facility willing to carry out your wishes.

What if I change my mind?

You may change or revoke these documents at any time regardless of your mental or physical condition. Preferably, any changes should be signed and dated and copies given to your physician, family, appointed agent or other appropriate people. While Iowa law does not require you to revoke either document in writing, your physician must be informed.

What about Do Not Resuscitate (DNR) Orders?

Even if you have a living will and/or durable healthcare power of attorney, it is important to talk to your family and your doctor about your desires to be resuscitated. For example, if you become terminally ill, you should make sure that your physician knows whether you want to be resuscitated if your heart or breathing stops. If appropriate, your doctor may be able to enter a special order called a Do Not Resuscitate Order (DNR). A DNR Order is an order from your doctor instructing your care provider to not revive you if your heart or breathing stops. A DNR Order provides instructions for health care providers, including emergency medical services, telling them not to revive you. Although health care providers do not perform life saving efforts on DNR patients, they still keep them as comfortable and free from pain as possible.

DNR Orders are generally kept in a patient's chart when they are in a hospital or health care facility. The doctor may also order an Out-of-Hospital DNR that makes the DNR portable outside of the health care facility setting. Patients with an Out-of-Hospital DNR generally wear a special identifier so that health care providers immediately know that the patient is a DNR patient, even when they are outside of a health care facility.

If you have questions regarding DNR Orders, consult your physician.

Does having or not having an Advance Directive affect my ability to obtain insurance or health care services?

Executing an Advance Directive does not affect or modify any terms of your life insurance. Doctors, health care providers (including nursing homes) and insurers cannot require you to have an Advance Directive.

What if I have Advance Directives not prepared according to Iowa law or on the Bar Association's forms?

Most states have specific rules as to what will be recognized as a valid Advance Directive. If you plan to spend time in another state, you may wish to execute Advance Directives in compliance with that state's laws.

If you wish to execute Advance Directives in more than one state, you should contact your attorney to avoid possible problems. It is your responsibility to ensure your Advance Directive is in accordance with Iowa law.

If you have an Advance Directive that was not completed in accordance with the laws of Iowa, Iowa forms should be signed to avoid confusion. It is recommended you use the Iowa State Bar Association form but it is not required.

This brochure is intended for informational purposes only and is subject to revision as the laws are changed. Specific questions should be directed to your physician or attorney.

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Cut along this dotted line

To get a Durable Power of Attorney for Health Care or a Living Will form, send this completed form and a SELF-ADDRESSES, STAMPED ENVELOPE to:

**IOWA STATE BAR ASSOCIATION
P.O. BOX 4906
DES MOINES, IOWA 50306**

Name

Date of Birth

Address

City, State, Zip