

# Decide for Yourself

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A Guide  
to Advance  
Health Care  
Directives

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## Introduction

There may be times in your life when you cannot make your own health care choices. An advance health care directive helps you plan for your care in these situations. By stating your wishes in advance, you can have a voice in your care when you cannot speak for yourself. You also can choose who may speak for you.

This guide gives general information about advance health care directives. It does not replace medical or legal advice from a professional. You should talk with your doctor about your advance health care directive. Consult your attorney if you want legal advice.

Your advance health care directive can help comfort your family and friends when you have a serious medical problem. By sharing your treatment wishes in a written document, you spare them from having to make tough decisions without knowing what you would want.

Making an advance health care directive is important for all of us—not just for people who know that they will be facing end-of-life decisions in the near future. Anyone may lose their ability to make health care choices without warning due to an unexpected illness or accident.

## What is an advance health care directive?

There are two main types of advance health care directives:

- In a **living will**, you write your specific wishes about life support and other medical treatments. Instructions in your living will take effect only when you cannot under-



stand, make, and communicate your treatment choices (see definition of **incompetent**) and you either have an **end-stage medical condition** or are **permanently unconscious**.

- In a **health care power of attorney**, you name a person who you trust to make health care choices for you. This person is your **health care agent**. You control what choices your agent may make, when your agent may make those choices, and how you want your agent to make your choices.

**Incompetent** means that you cannot understand, make, and communicate a specific health care choice, even when you are given help, such as an interpreter. You may be competent to make some health care choices, but incompetent to make other ones. You also may become temporarily incompetent and later regain competence.

**End-stage medical condition** means an advanced illness or other medical condition that cannot be cured or reversed and will result in your death, even if you receive medical treatment.

**Permanently unconscious** means that you are totally unconscious and this cannot be reversed or made better. When you are permanently unconscious, you cannot interact with or respond to people or things around you.

You may make a **combined directive** that includes both a living will and a health care power of attorney.

## Who can make an advance health care directive?

Any adult (18 years of age or older) of sound mind may make an advance health care directive. A minor (less than 18 years old) of sound mind also may make an advance health care directive if he or she has married, has graduated from high school, or is legally free from control of parents (emancipated).

# Can a family member or friend make health care choices for me if I become incompetent and I have not named a health care agent?

A **health care representative** may make health care choices for you if you become incompetent and you have:

- No living will with applicable instructions,
- No available health care agent, and
- No legal guardian to make health choices for you.

Pennsylvania law allows you to choose your health care representative while you are of sound mind. You just need to put your choice in writing or tell your health care providers in person.

If you do not name a health care representative, Pennsylvania health care providers generally must use someone from a list of family members and other persons close to you (in the order listed in box).

### Health care representative list:

1. Spouse (*unless one of you has filed for divorce*) and adult child from a different relationship
2. Adult child
3. Parent
4. Adult brother or sister
5. Adult grandchild
6. Adult who is familiar with what you would want

# Why should I name a health care agent when a family member or friend can speak for me if I become incompetent?

It usually is better to name a health care agent in a health care power of attorney instead of relying on a health care representative to speak for you. One important reason is

that by planning in advance, you increase the chance that the person who speaks for you will make the choices that you would have made.

## How can my doctor help me make my advance health care directive?

Talking to your doctor is an important first step. Your doctor can:

- Help you understand your medical conditions and the choices that you may have to make about medical treatment,
- Help you understand why there may be a time when you cannot make your own health care choices,
- Describe common medical treatments that people need when seriously ill, such as “life-support,” and
- Explain the benefits and burdens that you could expect from these treatments.

## Who should I name as my health care agent?

You generally may name any adult (18 years of age or older) as your health care agent. Choose someone who:

- Knows you well and can be trusted to honor your choices,
- Is able to make difficult choices under stressful circumstances,
- Is able to stand up for you to make sure that your choices are honored as much as possible, and

- Is likely to be available, able, and willing to make health care decisions for you when you cannot speak for yourself.

It is a good idea to name one or more alternate health care agents. There may be times when your first choice for a health care agent is unavailable, unable, or unwilling to serve. For example, your first choice may be away on vacation and unreachable or may also become too sick to make your decisions.

## What should I think about when I make my living will?

Think about how you would like to be cared for if you have an end-stage medical condition or are permanently unconscious. You may want to give specific instructions about:

- **Life-support and other treatment to keep you alive**—Do you want to receive highly technical treatments, tube

feeding (**artificial nutrition and hydration**), or other care that your doctor believes will only delay the time of your death or keep you in a permanently unconscious state?

**Artificial nutrition and hydration** means nutrition (food) and hydration (water) given to you by artificial or invasive means. It frequently is referred to as **tube feeding** because the solutions are given to you through a tube put in your nose, stomach, intestines, arteries, or veins.

It is important that you specifically state your wishes about tube feeding when you make your advance health care directive. Pennsylvania law has protections to make sure that tube feeding is given when necessary to preserve your life unless it is clear that you would not want it under the circumstances.

- **Pain control and other relief**—Do you want medicines and other treatments to relieve your pain or other severe symptoms, even if these will cause you to sleep more and perhaps make you less able to interact with loved ones?

## Is there a form that I must use when I make my advance health care directive?

Pennsylvania law does not require you to use a specific form when you make your advance health care directive. You may use a sample form included in the law or another form of your choosing or you may write your own directive. (See page 9 for how to obtain a form.)

## How do I sign my advance health care directive?

Be sure to sign and date your advance health care directive in the presence of two adult (18 years of age or older) witnesses.

If you cannot sign for yourself, you may have someone sign for you. However, your witnesses cannot sign for you. Also, your doctors, other health care providers who are giving you care, and people who work for them cannot sign for you.

## Must I have my advance health care directive notarized?

Pennsylvania does not require your advance health care directive to be notarized. However, some other states require notarization. Having your advance health care directive notarized will increase the chances of it being followed if you receive medical treatment in one of the states with this requirement.

## What should I do with my advance health care directive once it's completed?

Keep your advance health care directive in a safe place. But,



make sure that it is somewhere that your family or health care agent can get it if you are ill.

Ask your doctors and other health care providers to put a copy of your advance health care directive in your medical record. Take a copy with you if you are admitted to a hospital, nursing home, or other health care facility.

Give a copy to your health care agent (including the people who you name as alternate agents). Be sure to talk with them about your instructions, preferences, and goals for medical treatment, even if you have stated them in your advance health care directive.

Give a copy to close family members and other people who you expect would want to help make medical decisions for you if you are too sick to do so. You also may want to give a copy to your spiritual advisor (pastor, priest, or rabbi) and your attorney.

## What if I change my mind?

You should read your advance health care directive from time to time to make sure it still expresses your wishes. You can **amend** (change) your directive or **revoke** (cancel) your directive completely.

## Do my doctors have to follow my living will and the requests of my health care agent or health care representative?

Your doctor and other health care providers generally must treat instructions in your living will and the requests of your health care agent as if they were personally made by you.

However, Pennsylvania law requires health care providers to give life-preserving treatment to incompetent pregnant women in some circumstances. Also, Pennsylvania law limits when doctors may honor the request of your health care representative to refuse or stop life-preserving care.

Pennsylvania law also permits doctors and other health care providers to choose not to follow your living will or the requests of your health care agent in some other situations, such as when they believe it would be morally wrong to do so. However, they must let you or your agent know that they won't follow the request and make a reasonable effort to transfer you to a health care provider who is willing to honor it.

## Will my advance health care directive be followed in other states?

Most states have laws that allow advance health care directives. However, some states have more strict rules for making a directive. For example, as noted, some states require that an advance health care directive be notarized.

Some states also have more strict rules for when a living will may allow life-preserving treatment to be stopped or not used for a patient who has a terminal or end-stage medical condition. For example, Pennsylvania law does not require that the patient be expected to die within a specified time. However, some states have a maximum life-expectancy requirement, such as six months.

## Will my health care agent or representative pay my health care bills?

The choices of your health care agent or representative may result in you being billed for health insurance premiums, or health care costs that are not covered by your health insurance. You or your estate remain responsible for these costs. If you want to name someone to pay your bills from your money and handle your other financial arrangements, you need to make a financial power of attorney. This is something that you may want to discuss with your attorney.

## How do I get more information on advance health care directives?

For more information, including sample forms, additional questions and answers, and other resources, go to the Pennsylvania Medical Society's patient Web site at [www.pamedsoc.org/tools-you-can-use/topics/public-health/advanced-directives](http://www.pamedsoc.org/tools-you-can-use/topics/public-health/advanced-directives) or The Hospital & Healthsystem Association of Pennsylvania Web site at [www.haponline.org/Consumers](http://www.haponline.org/Consumers).





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**Complaints concerning non-compliance with the advance directive requirements  
may be filed with the Department of Health by calling 1-800-254-5164.**