



Advance Directives

Advance Directives for Health Care Decision Making

Why are they important?

People have the right to make their own health care decisions. Advance directives can help people communicate their treatment choices when they would otherwise be unable to make such decisions.

But what if you become incapable of making health care decisions for yourself because of injury or illness? Imagine that you are in a hospital, terminally ill with cancer and are confused.

Who will decide whether you should have CPR (cardiopulmonary resuscitation) if your heart should stop suddenly? Or what if you are 40 years old and are involved in a motor vehicle accident which leaves you permanently unconscious. Who will decide whether you are to be kept alive with tube feedings? Or what if you have Alzheimer's Disease and you develop a serious infection in a nursing home. Who will decide whether or not you will be hospitalized and treated with antibiotics?

“Tennessee Law has changed”

You can remain in charge of your health care, even after you can no longer make decisions for yourself by creating a document called an “Advance Care Plan”.

Frequently Asked Questions About Advance Directives

1. What is a Living Will/Advance Care Plan?

A “Living Will” is the term used in Tennessee's prior law. In 2004, Tennessee law changed the name of the form “Living Will” to “Advance Care Plan”.

An Advance Care Plan is a document that tells your doctor how you want to be treated if you are terminally ill or permanently unconscious. You can use a Living Will/Advance Care Plan to tell your doctor you want to avoid life-prolonging interventions such as cardiopulmonary resuscitation (CPR), kidney dialysis or breathing machines. You can use this form to tell your doctor you just want to be pain free and comfortable at the end of life. You may also add other special instructions or limitations in your form.

An Advance Care Plan form is included in this booklet. You may create an Advance Care Plan by filling out this form and having it properly witnessed and/or notarized (see questions 13 and 14).

2. What is a Medical Power of Attorney?

A Medical Power of Attorney is a term used in the State's law prior to 2004. In the new law this is referred to as an Appointment of Health Care Agent. An Appointment of Health Care Agent is another type of advance directive that allows you to name a person to make health care decisions for you if you are unable to make them for yourself.

An Appointment of Health Care Agent form is included in this booklet. You may complete an Appointment of Health Care Agent form by filling out this form and having it properly witnessed and/or notarized (see questions 13 and 14).

3. How is the Appointment of Health Care Agent different from the Advance Care plan?

An Advance Care Plan only applies if you are terminally ill or permanently unconscious AND too sick to make decisions for yourself. An Advance Care Plan only tells your doctor what you do not want unless you write in other specific instructions. It is a written record of decisions that you have made yourself.

On the other hand, the Appointment of Health Care Agent allows you to choose someone else to make health care decisions for you if you are too sick to make them for yourself. This person is called your Health Care Agent. Your Agent can make any health care decision that you could make if you were able. A Health Care Agent allows you to give specific instructions to your representative about the type of care you would want to receive.

The Appointment of Health Care Agent allows your decision maker to respond to medical situations that you might not have anticipated and to make decisions for you with knowledge of your values and wishes.

4. I am a young person in good health. Do I really need to create a formal Advance Directive?

Advance Directives are for all adults, including mature minors and emancipated minors. We never know when an accident or serious illness will leave us incapable of making our own health care decisions.

5. What if I already have a Living Will? Do I need to create an Advance Care Plan?

The new form developed for use has more detailed instructions and may best express your desires so one may want to create a new Advance Directive. If a new form is not created, the old form will be honored. The Advance Care plan includes both the Appointment of Health Care Agent and Advance Directives.

The Advance Care plan is a more flexible document and allows you to name someone to make decisions for you and provides directives for care if your quality of life becomes unacceptable.

Some people, however, do not have someone whom they trust or who knows their values and preferences. These people should consider creating an Advance Care Plan.

6. Should I complete a new Living Will or Medical Power of Attorney if I completed one before July 1, 2004?

On July 1, 2004, a new law went into effect that made several changes to the Living Will and Medical Power of Attorney forms. Most importantly the law created new forms with new terms for this process. The new forms are written in clear, easy to understand language. If you want to take advantage of these changes, you should complete those new forms – Advance Care Plan and Appointment of Health Care Agent. Any Living Will or Medical Power of Attorney completed prior to July 1, 2004 will be honored.

7. Can I combine my Living Will and Medical Power of Attorney in one form?

Yes. The new “Advance Care Plan” combines both forms.

8. Can I still make my own health care decisions once I have created an Advance Directive?

Yes. Your Advance Directive does not become effective until you are incapable of clearly expressing your own wishes. As long as you can do this, you have the right to make your own decisions.

9. If I decide to appoint a Health Care Agent, how should I choose my Agent?

Choose someone who knows your values and wishes, and whom you trust to make decisions for you. Do the same for a successor agent. Ask both to be sure they understand and agree to be your agent.

You may, but do not have to, choose a family member to be your agent. Regardless of your choice, your agent should be someone who will be available if needed and who will decide matters the way you would decide.

Name only one person each as your agent and your successor agent. Do not choose your doctor, or another person who is likely to be your future health care provider, as your agent or successor agent.

10. What instructions should I give my agent concerning my health care?

You may give very general instructions and preferences, or be quite specific. It would be helpful to your agent to have directions from you about life-prolonging intervention, particularly medically administered food and water (tube feedings), cardiopulmonary resuscitation (CPR), the use of machines to help you breathe, and organ and tissue donation.

Many people choose to write their agents a letter stating their personal values and wishes, their feelings about life and death, and any specific instructions, and to attach a copy of this letter to their Appointment of Health Care Agent Form.

Talk with your agents about your choices and personal values and beliefs. Make sure they know what is important to you. This information will help them make the decisions that you would make if you were able.

11. Can any person create an Advance Directive?

Yes. Any adult (including a mature or emancipated minor) who has the capacity to make decisions for himself or herself can create an Advance Directive.

12. Do I need a lawyer to create an Advance Directive?

No. Advance Care Plan and Appointment of Health Care Agent can be created without the assistance of a lawyer.

13. Who should witness my signature on my Advance Directive?

Your witnesses must be a competent adult who is not the agent and at least one (1) witness not related to you by blood or marriage or adoption. Choose persons who will not inherit any of your property.

14. How can I find a Notary Public if I choose to have my signature notarized?

Businesses such as banks, insurance agents, government offices, hospitals, doctors' offices, and automobile associations have or can direct you to a notary public.

15. What should I do with my Advance Directive after I sign it?

After your Advance Directive is signed, witnessed and/or notarized, give one copy each to your agent, your successor agent, your doctor, and your local hospital. Keep the original document in a safe location where it can be easily found. Your safe deposit box may not be the best place for your Advance Directive unless you are certain someone close to you has access to the safe deposit box if you become incapacitated.

Make sure your agent knows where the original is so it can be shown to your doctor on request. However, a photocopy of your Advance Directive is legally valid.

16. What if my doctor or my family does not agree with my treatment choices or health care decisions?

You can prevent this from happening by talking with your family and health care providers about your decisions and personal values and beliefs. If others understand your choices and the reasons for them, there is less of a chance that they will challenge them later.

If you have made your wishes known in an Advance Directive and a disagreement does occur, your doctor and your agent must respect your wishes. You have a right to refuse or consent to health care. If your doctor cannot comply with your wishes, he or she must transfer your care to another doctor.

The consent or refusal of your Appointed Health Care Agent is as meaningful and valid as your own. The wishes of other family members will not override your own clearly expressed choices or those made by your agent on your behalf.

17. Do I have to sign an Advance Directive to receive health care treatment?

No. A doctor or other health care provider cannot require you to complete an Advance Directive as a condition for you to receive services.

18. Will another state honor my Advance Directive?

Laws differ somewhat from state to state, but in general, a patient's expressed wishes will be honored. No law or court has invalidated the concept of Advance Directives, and an increasing number of statutes and court decisions support it.

19. What if I change my mind about who I want to be my agent or about the kind of treatment I want?

You should review your Advance Directive periodically to make sure it still reflects your wishes. The best way to change your Advance Directive is to create a new one. The new Advance Directive will automatically cancel the old one. Be sure to notify all people who have copies of your Advance Directive that you completed a new one. Collect and destroy all copies of the old version.

20. How can I be sure that the wishes expressed in my Advance Directive will be followed?

Be sure your doctor has a current copy. Bring a copy with you if you are admitted to a health care facility. Tell people where you keep your Advance Directive.

21. How can I get more copies of the Advance Directives forms?

You may get copies from a local health care facility or you can download the forms at www.tennessee.gov/health and click on “Advance Directive Forms and Information”. Forms are available in English or Spanish at this web site. You may also call our Member Services department at 615-782-7878 or toll free 1-800-316-2273 to request a copy of this booklet. TTY users should 1-800-848-0298. We are available Monday through Friday 7:30 a.m. to 5:30 p.m. CST.

22. Should facilities develop a form to use when appointing a surrogate?

On May 3rd, 2005 the Board for Licensing Health Care Facilities approved a model form to use in the appointment of a surrogate. The law requires the physician to promptly record in the patient’s clinical record and communicate the determination to the patient, if possible, and to any person then authorized to make health care decisions for the patients. When documenting his decision, the physician should also document how he arrived at his decision.

ADVANCE CARE PLAN

Instructions: Competent adults and emancipated minors may give advance instructions using this form or any form of their own choosing. To be legally binding, the Advance Care Plan must be signed and either witnessed or notarized.

I, _____, hereby give these advance instructions on how I want to be treated by my doctors and other health care providers when I can no longer make those treatment decisions myself.

Agent: I want the following person to make health care decisions for me:

Name: _____ Phone #: _____ Relation: _____
Address: _____

Alternate Agent: If the person named above is unable or unwilling to make health care decisions for me, I appoint as alternate:

Name: _____ Phone #: _____ Relation: _____
Address: _____

Quality of Life:

I want my doctors to help me maintain an acceptable quality of life including adequate pain management. A quality of life that is unacceptable to me means when I have any of the following conditions (**you can check as many of these items as you want**):

- Permanent Unconscious Condition:** I become totally unaware of people or surroundings with little chance of ever waking up from the coma.
- Permanent Confusion:** I become unable to remember, understand or make decisions. I do not recognize loved ones or cannot have a clear conversation with them.
- Dependent in all Activities of Daily Living:** I am no longer able to talk clearly or move by myself. I depend on others for feeding, bathing, dressing and walking. Rehabilitation or any other restorative treatment will not help.
- End-Stage Illnesses:** I have an illness that has reached its final stages in spite of full treatment. Examples: Widespread cancer that does not respond anymore to treatment; chronic and/or damaged heart and lungs, where oxygen needed most of the time and activities are limited due to the feeling of suffocation.

Treatment:

If my quality of life becomes unacceptable to me and my condition is irreversible (that is, it will not improve), I direct that medically appropriate treatment be provided as follows. **Checking "yes" means I WANT the treatment. Checking "no" means I DO NOT want the treatment.**

<input type="checkbox"/> Yes <input type="checkbox"/> No	<u>CPR (Cardiopulmonary Resuscitation):</u> To make the heart beat again and restore breathing after it has stopped. Usually this involves electric shock, chest compressions, and breathing assistance.
<input type="checkbox"/> Yes <input type="checkbox"/> No	<u>Life Support / Other Artificial Support:</u> Continuous use of breathing machine, IV fluids, medications, and other equipment that helps the lungs, heart, kidneys and other organs to continue to work.
<input type="checkbox"/> Yes <input type="checkbox"/> No	<u>Treatment of New Conditions:</u> Use of surgery, blood transfusions, or antibiotics that will deal with a new condition but will not help the main illness.
<input type="checkbox"/> Yes <input type="checkbox"/> No	<u>Tube feeding/IV fluids:</u> Use of tubes to deliver food and water to patient's stomach or use of IV fluids into a vein which would include artificially delivered nutrition and hydration.

PLEASE SIGN ON NEXT PAGE

Other instructions, such as burial arrangements, hospice care, etc.: _____

(Attach additional pages if necessary)

Organ donation (optional): Upon my death, I wish to make the following anatomical gift (please mark one):

Any organ/tissue My entire body Only the following organs/tissues: _____

SIGNATURE

Your signature should either be witnessed by two competent adults or notarized. If witnessed, neither witness should be the person you appointed as your agent, and at least one of the witnesses should be someone who is not related to you or entitled to any part of your estate.

Signature: _____
(Patient)

DATE: _____

Witnesses:

1. I am a competent adult who is not named as the agent. I witnessed the patient's signature on this form.

Signature of witness number 1

2. I am a competent adult who is not named as the agent. I am not related to the patient by blood, marriage, or adoption and I would not be entitled to any portion of the patient's estate upon his or her death under any existing will or codicil or by operation of law. I witnessed the patient's signature on this form.

Signature of witness number 2

This document may be notarized instead of witnessed:

STATE OF TENNESSEE
COUNTY OF _____

I am a Notary Public in and for the State and County named above. The person who signed this instrument is personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who signed as the "patient". The patient personally appeared before me and signed above or acknowledged the signature above as his or her own. I declare under penalty of perjury that the patient appears to be of sound mind and under no duress, fraud, or undue influence.

My commission expires: _____

Signature of Notary Public

WHAT TO DO WITH THIS ADVANCE DIRECTIVE

- Provide a copy to your physician(s)
- Keep a copy in your personal files where it is accessible to others
- Tell your closest relatives and friends what is in the document
- Provide a copy to the person(s) you named as your health care agent

APPOINTMENT OF HEALTH CARE AGENT

(Tennessee)

I, _____, give my agent named below permission to make health care decisions for me if I cannot make decisions for myself, including any health care decision that I could have made for myself if able. If my agent is unavailable or is unable or unwilling to serve, the alternate named below will take the agent's place.

Agent:

Alternate:

Name

Name

Address

Address

City State Zip Code

City State Zip Code

() _____
Area Code Home Phone Number

() _____
Area Code Home Phone Number

() _____
Area Code Work Phone Number

() _____
Area Code Work Phone Number

() _____
Area Code Mobile Phone Number

() _____
Area Code Mobile Phone Number

Patient's name (please print or type) Date

Signature of patient (must be at least 18 or emancipated minor)

To be legally valid, **either** block A **or** block B must be properly completed and signed.

Block A Witnesses (2 witnesses required)

1. I am a competent adult who is not named above.
I witnessed the patient's signature on this form.

Signature of witness number 1

2. I am a competent adult who is not named above. I am not related to the patient by blood, marriage, or adoption and I would not be entitled to any portion of the patient's estate upon his or her death under any existing will or codicil or by operation of law. I witnessed the patient's signature on this form.

Signature of witness number 2

Block B Notarization

STATE OF TENNESSEE
COUNTY OF _____

I am a Notary Public in and for the State and County named above. The person who signed this instrument is personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is shown above as the "patient." The patient personally appeared before me and signed above or acknowledged the signature above as his or her own. I declare under penalty of perjury that the patient appears to be of sound mind and under no duress, fraud, or undue influence.

My commission expires: _____

Signature of Notary Public

APPOINTMENT OF SURROGATE
(TENNESSEE)

I, _____ made the decision to appoint
Designated Physician
_____ as surrogate for
Name of Surrogate

Name of Patient

Surrogate Contact Information: Home: _____
Work: _____
Cell Phone: _____

Reasons for Appointment (check all that apply):

- | | |
|---|---|
| <input type="checkbox"/> Knows patient's wishes | <input type="checkbox"/> Demonstrates care and concern |
| <input type="checkbox"/> Knows patient's best interest | <input type="checkbox"/> Visits patient regularly during illness |
| <input type="checkbox"/> Had regular contact with patient | <input type="checkbox"/> Engages in face-to-face contact with caregiver |
| <input type="checkbox"/> Available and willing to serve | <input type="checkbox"/> Participates in decision making process |

Physician Signature _____
Date/Time

If designated physician is to act as surrogate, one of the following signatures must be obtained:

Ethics Committee Representative **Date** **or** _____
Concurring Second Physician **Date**

Any individuals in disagreement? Yes ___ No ___

If yes, please explain _____

ACCEPTANCE OF SURROGATE SELECTION

I accept the appointment as surrogate for _____
Patient
and understand I have the authority to make all medical decisions.

Signature of Surrogate _____
Date/Time