

The Advance Health Care Directive is written instructions which communicate your wishes about the care and treatment you want if you reach a point where you can no longer make your own health care decisions.

All health care facilities that receive Medicare and Medi-Cal payments must provide patients with written information concerning:

1. their right to accept or refuse treatment and
2. their right to prepare advance directives.

The law does not require that you actually have or make an advance directive.

Under California law adult persons with decision making capabilities have the right to accept or refuse medical treatment or life-sustaining procedures. Artificial nutrition and hydration are among the medical procedures you have the right to accept or refuse.

REASONS WHY YOU MAY WANT TO PREPARE AN ADVANCE DIRECTIVE

- To ensure you receive the care and services you desire.
- To ensure the refusal of treatment at a determined stage if you have previously stated your desires to do so.
- To designate the person you would like to make decisions on your behalf.
- To ensure that family and friends understand your wishes regarding health care. If you do not make your wishes clear, your family members and friends may not agree about what type of care and treatment you would want. It is possible that your desires will not be carried out, since a conflict may lead to a lengthy court delay.

Being prepared with an Advance Directive, you can say WHAT types of treatment you want, and WHO you want to speak for you.

THE DURABLE POWER OF ATTORNEY FOR HEALTH CARE

This is a legally binding document that allows the person you choose (the "agent") to make health decisions for you if and when you are no longer able to make such decisions. You should select a person who knows you well, and whom you trust. Your agent may be a relative or a friend, but must not be your attending doctor. The **Durable Power of Attorney for Health Care** allows your agent to make any and all health care decisions for you once you are no longer able

to decide. This includes routine medical decisions, as well as more complicated decisions. Your agent can even decide to withdraw or withhold life-sustaining procedures if you give your agent that authority.

To be valid, the document must be signed by you. The document must also be witnessed by two qualified adult witnesses.

Those persons not eligible to be witnesses are your doctor, nurse, their employee or any other healthcare professional.

- You DO NOT need a lawyer to fill out a **Durable Power of Attorney for Health Care**.
- **The Durable Power of Attorney for Health Care** allows you, in writing, to declare your desire to receive or not receive life-sustaining treatment under certain conditions. You may list any instructions you want pertaining to health care.

THE NATURAL DEATH ACT

This is another type of advance directive most often called a "**Declaration**." This document **DOES NOT** require you to appoint an agent to make health care decisions for you.

The **Declaration** is for terminally ill patients. While you still have decision making capabilities, you may sign a Declaration which tells your doctors that you don't want any treatment that would prolong the dying process. The Declaration must be following in these circumstances:

- If you fall into a permanent unconscious state or a terminal condition (certified by two doctors)
- At the time you cannot make your own health care decisions.

Those persons who are witnesses to the signing of the Declaration must meet the same requirements as those needed for the Durable Power of Attorney for Health Care.

DO I NEED A SPECIAL FORM FOR THIS DURABLE POWER OF ATTORNEY FOR HEALTH CARE?

YES. Use a *Durable Power of Attorney for Health Care* form, not a plain Durable Power of Attorney. You can ask your physician, nurse, or social worker about the form.

The California Medical Association had printed forms that meet the legal requirement.

**California Medical Association
P.O. Box 7690**

**San Francisco, CA 94120-7690
714-882-5175**

The form is also carried by:

**California Health Decisions
500 South Main Street
Orange, CA 92668
714-647-4920**

Many stationary stores carry the forms. There is a small charge for these forms from all sources.

OTHER DOCUMENTS

Other documents that help determine your health care desires IF and WHEN you are UNABLE to make such decisions for yourself:

"DO NOT RESUSCITATE." This form allows your doctor to withhold "resuscitative measures," should that be your desire. This should be signed by you, your doctor, and a surgeon. The law does not require witnesses and notarization. **NO ONE CAN MAKE YOU SIGN A "DO NOT RESUSCITATE" ORDER.**

"PREFERRED INTENSITY OF CARE." This is a document of your preferences for care under special circumstances. A discussion with your physician and/or legal representative occurs prior to creating this document.

"LIVING WILL." This lists your desires to receive or not receive life-sustaining medical treatment under certain circumstances. A living will is **NOT** a legally binding agreement, although it is often accepted as an accurate statement of one's wishes.

Frequently Asked Questions About the Advance Health Care Directive

Source: State of California, Department of Health Services

Who decides about my treatment?

Your doctors will give you information and advice about treatment. You have the right to choose. You can say "Yes" to treatments you want. You can say "No" to any treatment that you don't want--even if the treatment might keep you alive longer.

How do I know what I want?

Your doctor must tell you about your medical condition and about what different treatments and pain management alternatives can do for you. Many treatments have "side effects." Your doctor must offer you information about problems that medical treatment is likely to cause you.

Often, more than one treatment might help you, and people have different ideas about which is best. Your doctor can tell you which treatments are available to you, but your doctor can't choose for you. That choice is yours to make and depends on what is important to you.

Can other people help with my decisions?

Yes. Patients often turn to their relatives and close friends for help in making medical decisions. These people can help you think about the choices you face. You can ask the doctors and nurses to talk with your relatives and friends. They can ask the doctors and nurses questions for you.

Can I choose a relative or friend to make health care decisions for me?

Yes. You may tell your doctor that you want someone else to make health care decisions for you. Ask the doctor to list that person as your health care "surrogate" in your medical record. The surrogate's control over your medical decisions is effective only during treatment for your current illness or injury or, if you are in a medical facility, until you leave the facility.

What if I become too sick to make my own health care decisions?

If you haven't named a surrogate, your doctor will ask your closest available relative or friend to help decide what is best for you. Most of the time that works. But sometimes everyone doesn't agree about what to do. That's why it is helpful if you can say in advance what you want to happen if you can't speak for yourself.

Do I have to wait until I am sick to express my wishes about health care?

No. In fact, it is better to choose before you get very sick or have to go into a hospital, nursing home, or other health care facility. You can use an *Advance Health Care Directive* to say who you want to speak for you and what kind of treatments you want. These documents are called "*advance*" because you prepare one before health care decisions need to be made. They are called "*directives*" because they state *who* will speak on your behalf and *what* should be done. In California, the part of an advance directive you can use to appoint an agent to make health care decisions is called a "*Power of Attorney for Health Care.*" The part where you can express what you want done is called an "*Individual Health Care Instruction.*"

Who can make an advance directive?

You can if you are 18 years of age or older and are capable of making your own decisions. You do not need a lawyer.

Who can I name as my agent?

You can choose an adult relative or any other person you trust to speak for you when medical decisions must be made.

When does my agent begin making my medical decisions?

Usually, a health care agent will make decisions only after you lose the ability to make them yourself. But, if you wish, you can state in the Power of Attorney for Health Care that you want the agent to begin making decisions immediately.

How does my agent know what I would want?

After you choose your agent, talk to that person about what you want. Sometimes treatment

decisions are hard to make, and it truly helps if your agent knows what you want. You can also write your wishes down in your advance directive.

What if I don't want to name an agent?

You can still write out your wishes in your advance directive, without naming an agent. You can say that you want to have your life continued as long as possible. Or you can say that you would not want treatment to continue your life. Also, you can express your wishes about the use of pain relief or any other type of medical treatment.

Even if you have not filled out a written Individual Health Care Instruction, you can discuss your wishes with your doctor, and ask your doctor to list those wishes in your medical record. Or you can discuss your wishes with your family members or friends. But it will probably be easier to follow your wishes if you write them down.

What if I change my mind?

You can change or cancel your advance directive at any time as long as you can communicate your wishes. To change the person you want to make your health care decisions, you must sign a statement or tell the doctor in charge of your care.

What happens when someone else makes decisions about my treatment?

The same rules apply to anyone who makes health care decisions on your behalf--a health care agent, a surrogate whose name you gave to your doctor, or a person appointed by a court to make decisions for you. All are required to follow your Health Care Instructions or, if none, your general wishes about treatment, including stopping treatment. If your treatment wishes are not known, the surrogate must try to determine what is in your best interest.

The people providing your health care must follow the decisions of your agent or surrogate unless a requested treatment would be bad medical practice or ineffective in helping you. If this causes disagreement that cannot be worked out, the provider must make a reasonable effort to find another health care provider to take over your treatment.

Will I still be treated if I don't make an advance directive?

Absolutely. You will still get medical treatment. We just want you to know that if you become too sick to make decisions, someone else will have to make them for you. Remember that:

- **A Power of Attorney for Health Care** lets you name an agent to make decisions for you. Your agent can make most medical decisions, not just those about life sustaining treatment, when you can't speak for yourself. You can also let your agent make decisions earlier, if you wish.
- You can create an **Individual Health Care Instruction** by writing down your wishes about health care or by talking with your doctor and asking the doctor to record your wishes in your medical file. If you know when you would or would not want certain types of treatment, Instruction provides a good way to make your wishes clear to your doctor and to anyone else who may be involved in deciding about treatment on your behalf.

- These two types of Advance Health Care Directives may be used together or separately.

How can I get more information about making an advance directive?

Ask your doctor, nurse, social worker, or health care provider to get more information for you. You can have a lawyer write an advance directive for you, or you can complete an advance directive by filling in the blanks on a form.