



OFFICE OF THE JUDGE ADVOCATE GENERAL **LEGAL ASSISTANCE POLICY DIVISION**



ADVANCE MEDICAL DIRECTIVE

Making your wishes known about the medical treatment you may want when you are incapacitated can help ensure that family, friends, and medical professionals follow your wishes.

What is an Advance Medical Directive (living will)?

An Advanced Medical Directive (AMD) is a written declaration in which you state in advance your wishes about the use of life-prolonging medical care if you become terminally ill and unable to communicate. It ensures your wishes are carried out even if you become unable to communicate them at the time of need. If you do not want to burden your family with the medical expenses and prolonged grief involved in keeping you alive when there is no reasonable hope of revival, a living will typically authorizes withholding or turning off life-sustaining treatment if your condition is medically and completely irreversible. Living wills typically come into play when you are incapable of making and communicating medical decisions. Usually, you may be in a state such that if you do not receive life-sustaining treatment (e.g., intravenous feeding, respirator), you will die. If your living will is properly prepared and clearly states your wishes, the hospital or doctor should abide by it, and will in turn be immune from criminal or civil liability for withholding treatment.

Some people worry that by making out a living will, they are authorizing abandonment by the medical system, but a living will can state whatever your wishes are regarding treatment, so even if you prefer to receive all possible treatment, whatever your condition, it may be a good idea to state those wishes in a living will.

What is a Health Care Power of Attorney (a.k.a health care proxy)?

A Health Care Power of Attorney (HCPOA) is a special kind of durable power of attorney dealing with health-care planning. In it you appoint someone else to make health-care decisions for you – including, if you wish, the decision to refuse intravenous feeding or turn off the respirator if you are medically determined to be brain dead – if you become incapable of making that decision. The form can be used to make decisions about things like nursing homes, surgeries, and artificial feeding. Since it is impossible to predict every possible contingency in an AMD, having both an AMD and a HCPOA enables you to handle other kinds of disability, or “gray-area” issues where it may not be certain that you are terminally ill, or your doctor or state law fail to give your wishes sufficient deference. You may find it more advantageous to have an authorized trusted relative or friend make medical decisions.

As with the AMD, it is recommended that you put a copy of the HCPOA in your medical records or in a fire-proof box. Since these documents are so much more flexible than a living will, the AMD and HCPOA are very useful documents that could save you and your family much anxiety, grief, and money.

If I Have a Living Will, Do I Still Need a Health Care Power of Attorney?

It is a good idea to have both. A HCPOA appoints an agent to act for you; a living will does not. A HCPOA applies to all medical decisions (unless you specify otherwise); most living wills typically apply to a few decisions near the end of your life, and often are limited to use if you have a “terminal illness.” A HCPOA can include specific instructions to your agent about the issues you care most about, or what you want done in particular circumstances.

Where can I get a Living Will and/or a Healthcare Power of Attorney prepared?

For assistance, please contact your local legal assistance office to speak with an attorney.

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