



St. Mary's Hospital

Legal Rights of Marylanders to Decide About Health Care By: J. Joseph Curran, Jr. Attorney General

You Have the Right to Decide About Your Health Care:

Adults generally have the right to decide if they want medical treatment, unless they are not competent. This right also includes decisions about treatments that extend life, like life-support machines or feeding tubes.

Sometimes, an accident or illness takes away a person's ability to make health care choices. But the decision still must be made. If you are unable to make them, others will. They will decide based on your wishes, or your best interests if your wishes are unknown.

Maryland law gives you the right to make many health decisions in advance. One way to do this is by using a **written advance directive**. For example, you can use a written advance directive to name an agent to make your health care decisions if you cannot. A written advance directive can also state *your* treatment preferences, especially about life sustaining procedures.

Maryland law also lets you make an **oral advance directive** to your doctor, with a witness. Oral advance directives can be used to name a health care agent, to make decisions about life-sustaining procedures, or both.

Naming a Health Care Agent:

You can name anyone to be your health care agent. The only exception is that, in general, someone who works where you are receiving care cannot be your agent. Your agent can be a family member or friend.

You choose when your agent can decide for you – right away, if you want, or only after two doctors agree that you are not able to decide for yourself. You also choose the kinds of decisions your agent can make for you. For example, if you want, you can give your agent very broad power to decide about life-sustaining treatment.

Pick your health care agent carefully. Make sure your agent knows what you want. Your agent will then follow your wishes, even if your friends or family disagree.

Using Advance Directives:

There are many ways to use an advance directive. A **living will** is a type of written advance directive that states your wishes on life-sustaining treatments. It usually comes into effect when a person will die very soon from an incurable condition. It can also be used when a person is permanently unconscious (in a persistent vegetative state).

You can make a broader **written advance directive** for other health care issues too. For example, you can decide whether you want life-sustaining treatment if you are in an end stage condition. An end-stage condition is an advanced, progressive, and incurable condition resulting in complete physical dependency.

What Happens If You Do Not Make An Advance Directive?

No one can deny you health care because you do not have an advance directive. But you should know what happens legally if you do not.

Maryland law allows a surrogate to make medical decisions for you if you have not named a health care agent and are no longer able to decide treatment issues yourself. Then, your closest relative would be asked to make health care decisions for you. Your spouse, adult children, parents, or adult brothers and sisters, in that order, are considered your closest relatives. If these relatives are not available, another relative or a close friend can make decisions for you. A surrogate, though, might have less authority to decide against life sustaining procedures than a health care agent.

If there is no one to be a surrogate, a court might have to appoint a guardian to make your medical decisions. The guardian might be somebody who does not know you personally.

How Do You Get More Information?

This summary does not cover every issue. If you have legal questions about your rights, please talk to a lawyer. Also talk to your health care provider about the medical issues involved in your care. Tell those caring for you about your decisions and give them a copy of any advance directive.

For a free copy of **optional advance directive** forms, write to the Attorney General's Office, Opinions Division, 200 St. Paul Place, Baltimore, MD 21202 or call at (410) 576-7000. Forms are also available from the General Assembly's Department of Legislative Reference at (410) 841-3810 (if you are calling from the D.C. area, 858-3810, from the State Office on Aging at (800) 243-3425), or at any Area Agency on Aging.



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ADVANCE DIRECTIVE

APPOINTMENT OF HEALTH CARE AGENT

1. I, _____, residing at

appoint the following individual as my agent to make health care decisions for me:

(Full name and telephone number of agent)

(Full address of agent)

OPTIONAL: If this agent is unavailable or is unable or unwilling to act as my agent, then I appoint the following person to act in this capacity:

(Full name and telephone number of back-up agent)

(Full address of back-up agent)

2. My agent has full power and authority to make health care decisions for me, including the power to:
- a. Request, receive and review any information, oral and/or written, regarding my physical and/or mental health, including, but not limited to, medical and hospital records, and consent to disclosure of this information;
 - b. Employ and discharge my health care providers;
 - c. Authorize my admission to or discharge from (including transfer to another facility) any hospital, hospice, nursing home, adult home, or other medical care facility; and
 - d. Consent to the provision, withholding or withdrawal of health care, including, in appropriate circumstances, life-sustaining procedures.

3. The authority of my agent is subject to the following provisions and limitations:

4. If I am pregnant, my agent shall follow these specific instructions:

5. My agent's authority becomes operative *(initial only the one option that applies)*:

_____ When my attending physician and a second physician determine that I am incapable of making an informed decision regarding my health care; or

_____ When this document is signed.

6. My agent is to make health care decisions for me based on the health care instructions I give in this document and on my wishes as otherwise known to my agent. If my wishes are unknown or unclear, my agent is to make health care decisions for me in accordance with my best interests, to be determined by my agent after considering the benefits, burdens, and risks that might result from a given treatment or course of treatment, or from the withholding or withdrawal of a treatment or course of treatment.

7. My agent shall not be liable for the costs of care based solely on this authorization.

By signing below, I indicate that I am emotionally and mentally competent to make this appointment of a health care agent and that I understand its purpose and effect.

(Date)

(Signature of Declarant)

The declarant signed or acknowledged signing this appointment of health care agent in my presence and, based upon my personal observation, appears to be a competent individual.

(Witness #1)

(Witness #2)

(Address of Witness #1)

(Address of Witness #2)



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LIVING WILL

If I am not able to make an informed decision regarding my health care, I direct my health care providers to follow my instructions as set forth below. **(Initial those statements you wish to be included in the document and cross through those statements that do not apply).**

1. If my death from a terminal condition is imminent and even if life sustaining procedures are used there is no reasonable expectation of recovery:

_____ I direct that my life not be extended by life sustaining procedures, including the administration of nutrition and hydration artificially.

_____ I direct that my life not be extended by life sustaining procedures, except that, if I am unable to take food by mouth, I wish to receive nutrition and hydration artificially.

_____ I direct that, even in a terminal condition, I be given all available medical treatments in accordance with accepted health care standards.

2. If I am in a persistent vegetative state, that is, if I am not conscious and am not aware of my environment nor able to interact with others, and there is no reasonable expectation of my recovery within a medically appropriate period:

_____ I direct that my life not be extended by life sustaining procedures, including the administration of nutrition and hydration artificially.

_____ I direct that my life not be extended by life sustaining procedures, except that, if I am unable to take food by mouth, I wish to receive nutrition and hydration artificially.

_____ I direct that I be given all available medical treatments in accordance with accepted health care standards.

3. I am pregnant, my decision concerning life sustaining procedures shall be modified as follows:

By signing below, I indicate that I am emotionally and mentally competent to make this Living Will and that I understand its purpose and effect.

(Date)

(Witness #2)

The declarant signed or acknowledged signing this Living Will in my presence, and based upon my personal observation, the declarant appears to be a competent individual.

(Witness #1)

(Witness #2)

(Address of Witness #1)

(Address of Witness #2)

(Signatures and Addresses of Two Witnesses)



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ADVANCE DIRECTIVE

HEALTH CARE INSTRUCTIONS

If I am not able of making an informed decision regarding my health care, I direct my health care providers to follow my instructions as set forth below. ***(Initial all that apply).***

1. If my death from a terminal condition is imminent and even if life sustaining procedures are used there is no reasonable expectation of recovery:

_____ I direct that my life not be extended by life sustaining procedures, including the administration of nutrition and hydration artificially.

_____ I direct that my life not be extended by life sustaining procedures, except that, if I am unable to take food by mouth, I wish to receive nutrition and hydration artificially.

2. If I am in a persistent vegetative state, that is, if I am not conscious and am not aware of my environment nor able to interact with others, and there is no reasonable expectation of my recovery:

_____ I direct that my life not be extended by life sustaining procedures, including the administration of nutrition and hydration artificially.

_____ I direct that my life not be extended by life sustaining procedures, except that, if I am unable to take food by mouth, I wish to receive nutrition and hydration artificially.

3. If I have an end-state condition, that is, a condition caused by injury, disease or illness, as a result of which I have suffered severe and permanent deterioration indicated by incompetency and complete physical dependency and for which, to a reasonable degree of medical certainty, treatment of the irreversible condition would be medically ineffective:

_____ I direct that my life not be extended by life sustaining procedures, including the administration of nutrition and hydration artificially.

_____ I direct that my life not be extended by life sustaining procedures, except that if I am unable to take food and water by mouth, I wish to receive nutrition and hydration artificially.

_____ I direct that, no matter what my condition, medication to relieve pain and suffering not be given to me if the medication would shorten my remaining life.

_____ I direct that, no matter what my condition, I be given all available medical treatment in accordance with accepted health care standards.

4. If I am pregnant, my decision concerning life sustaining procedures shall be modified as follows:

5. I direct (in the following space, indicate any other instructions regarding receipt or nonreceipt of any health care):

By signing below, I indicate that I am emotionally and mentally competent to make this Advance Directive and that I understand the purpose and effect of this document.

(Date)

(Signature of Declarant)

The declarant signed or acknowledged signing this appointment of health care agent in my presence and, based upon my personal observation, appears to be a competent individual.

(Witness #1)

(Witness #2)

(Address of Witness #1)

(Address of Witness #2)