

# About Advance Directives



## Health care directive (also known as a living will)

A health care directive, commonly referred to as a “living will,” is a legal document specifying your wishes regarding the care you receive at the end of life, should you be unable to communicate them. In Washington State, the directive is used only if you have a terminal condition where life-sustaining treatment would only artificially prolong the process of dying, or if you are in an irreversible coma and there is no reasonable hope of recovery.

Health care directives may also be called a directive to a physician, declaration, or medical directive.

## Durable power of attorney for health care

A durable power of attorney for health care is a legal document allowing you to name a person as your health care agent – someone who is authorized to consent to, stop, or refuse most medical treatment for you if a physician determines you cannot make these decisions yourself. Once appointed, your health care agent can speak on your behalf anytime you are unable to make your own medical decisions, not only at the end of life.

This type of advanced directive is also referred to as a health care proxy, appointment of health care agent, or a medical power of attorney.

## Do I need an advanced directive?

Advanced directives are the best possible assurance that decisions regarding your future medical care will reflect your own wishes if you are unable to voice these wishes. For this reason, every person aged 18 or over should prepare a directive.

## Do I need both a living will and a durable power of attorney for health care?

Yes. Having both a living will and a durable power of attorney for health care will provide the best protection for your treatment wishes.

A durable power of attorney will allow for some flexibility regarding treatment decisions, since the agent that you choose to represent your wishes will be able to respond to unexpected changes in your condition and base decisions not just on your written wishes, but also on their familiarity with you and your feelings regarding your care.

A living will is necessary to provide instruction in case your agent is unable to serve, to provide evidence that the agent is acting in good faith in case the agent’s decisions are challenged, or to serve as the primary record of your wishes in case you are unable to appoint a health care agent.

## Are advance directives legal?

Yes. There are federal and state laws that govern the use of advanced directives. The federal law, the Patient Self-Determination Act, requires health care facilities that receive Medicaid and Medicare funds to inform patients of their rights to execute advanced directives. All 50 states and the District of Columbia have laws recognizing the use of advanced directives.

## Will my Washington state advance directive be recognized in another state?

Many states have laws that honor out-of-state directives. If you travel, take copies of your directives with you. If you spend a significant amount of time in another state, it is a good idea to fill out an advanced directive form for that particular state.

Note: Washington State does not require durable power of attorney for health care to be notarized or witnessed. As some states do require notarization, you may want to do so in the event you travel out-of-state.

## Will advanced directives be recognized in emergencies?

No. During most emergencies there is not enough time for emergency service personnel to consult the patient’s advance directive. Once the patient is under the direct care of a physician, there will be time for the advance directive to be evaluated and/or the health care agent to be consulted.

### **What should I do with these forms once completed?**

Signed copies of the completed directives should be included in your medical record, given to any person to whom you give your durable power of attorney – including any alternate people you may have named – and to your personal attorney. Originals should be in a safe but accessible place (not a safe deposit box).

### **Things to remember**

It is essential that you have honest and open discussions with your appointed health care agent, doctor(s), clergy, and family and friends about your wishes concerning medical treatment. Discuss your wishes with them often, especially if your medical condition changes.

If you wish to make changes to the directives, you should complete new documents.

You can always revoke one or both of your Washington State directives. If you choose to revoke your documents, make sure you notify your health care agent, alternate agents, your family and your doctor(s).

### **For more information**

You are encouraged to discuss the directives with your physician. Any legal questions you may have about the use and effect of these directives should be answered by an attorney.