

## Making an Advance Directive



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## Making an Advance Directive

What happens when an individual becomes too ill to make his or her own medical decisions? Someone must decide when to begin or not begin treatment, or when to stop it. Family members and doctors usually make decisions when the patient cannot. Sometimes they are not sure what is best. Sometimes they disagree. That's when it would be good to know what the patient would have wanted and whom the patient would have wanted to make these decisions. That's why it will help your family, close friends and physicians if you have completed an Advance Health Care Directive. If you have made your wishes clear, they are more likely to be followed.

## What is an Advance Directive?

An Advance Health Care Directive is a verbal or written instruction that tells your family and health care team what you want done in case you have a serious injury or illness and are not able to speak for yourself.

## Do I need a special form to make an Advance Directive?

No; however, there is an optional preprinted form you can use called the "Advance Health Care Directive" form. You can use the optional Advance Health Care Directive form in four ways:

### **Part 1: Designation of an Agent**

You can name a relative or friend you trust as your "agent" to make medical decisions for you if you cannot make them yourself. In California, this type of directive is called a "Power of Attorney for Health Care". Your doctors are required to follow your agent's instructions or transfer your care to another doctor who will. If you do not have someone you want to name as your agent, there are other choices, as noted in parts 2, 3 and 4:

## Part 2: Instructions for Health Care

You can write down when you would and would not want to be treated if you become very sick. You also can describe what kinds of treatment you would and would not want. People feel differently about how much treatment they want under different conditions.

## Part 3: Donation of Organs

You can determine if you want to have your body or any organs in your body donated to those in need.

## Part 4: Designation of a Primary Physician

You can designate a physician to manage your care.

## How does this form become valid?

The form is valid when:

- **One or more of the sections is completed.**
- **The form is signed and dated by the patient.** The form can be signed by another adult at the request of the patient and in the patient's presence.
- **The form is properly witnessed.** A lawyer or a notary public may witness the form. Two adults also can witness the form *instead* of a notary public or lawyer. The two witnesses cannot be named as agents, and cannot be owners or employees of a residential or community care facility.

## How can I get the Advance Health Care Directive form?

You can ask your doctor, nurse or clinical social worker for the form.

The California Medical Association has printed forms that meet the legal requirements and you can purchase a form (for a small fee) by contacting them at: California Medical Association, P.O. Box 7690, San Francisco, CA 94120-7690  
Phone: 415-541-0900 Online Order: [www.cmanet.org](http://www.cmanet.org).

Many office supply stores also carry these forms. Be sure to get an Advance Health Care Directive form, not a Durable Power of Attorney form.

## Is the form difficult to complete? Do I need a lawyer to help?

The form is six pages long and contains instructions on how to complete it. You may talk with a lawyer if you think it would be helpful, but it is not necessary. If you used a lawyer to complete your will, he or she may be able to help you with this form. If you want to talk to a lawyer but cannot afford one, or if you are over the age of 60, call the legal services agency in your area or your County Bar Association for information about how to get help at no cost.

Before you fill out the form, you need to think about when you would and would not want medical treatment. It may be helpful to speak with your family and doctor first about any concerns. Then you need to decide who will be your "agent(s)." Your agent(s) should be someone you trust to make decisions for you if you cannot make them yourself. You may name more than one person to be your agent(s). The Advance Health Care Directive only comes into effect when you are not able to speak for yourself. Until that time, your doctors will talk with you directly about your treatment choices, even if you have named an agent(s).

## Can I name anyone to be my agent(s)?

You can name anyone over the age of 18 with some exceptions. You cannot name your doctor, nurse or any other professional who is providing health care for you. You cannot name an employee of any person who is providing your health care or of any place where you are receiving care. However, if an employee of your health care provider or of your health care institution is a blood relative, then that person may be your agent.

You should think very carefully about whom you want to be your agent. This person should be someone you feel comfortable talking with and who knows your values and what is important to you. You may also want to consider someone who can be there if you

become seriously ill, or whom you feel you can trust to do what you want. This person should be someone who can stand up for what you want. These decisions can be emotionally difficult and you will want to choose someone who will help you. You also should name a second person as your agent(s) in case the person you name as your first choice is unable to do it.

### **Can my agent(s) make any health care decisions that I would make if I were able?**

Yes, with a few limitations. The law does not allow your agent(s) to approve certain types of treatment: abortion, sterilization, psychosurgery or involuntary mental health treatment. Your agent(s) has to follow the detailed instructions you have given. Your agent(s) cannot make any decision against your choices. Other than these limits, your agent has the same authority to make medical decisions about your treatment and care as you would have.

### **What do I do after I have decided on an agent(s)?**

First of all, you should talk with the person you want to name as your agent(s). This way, you are making sure that this person understands what this means and agrees to accept this responsibility. Next, you have to decide if you want to write down any specific instructions about your treatment. Or, you can just name someone to be your agent(s) and let that person make any decisions about your treatment if you are unable to do that yourself. If you do not write down specific instructions, your agent(s) will decide for you. Your agent(s) will be responsible for making those decisions based on his or her understanding of your wishes. Under the circumstances, your agent will do what he or she thinks is best for you.

The preprinted Advance Health Care Directive form has boxes that you can check. For example, under “Part 2: Instructions for Health Care,” you may choose:

- Not to prolong life
- To prolong life

You have two options: (1) You can check the box that matches your choices, or (2) you can write your treatment wishes in the blank spaces available on the form. You do not have to do either of these options, but it is a good idea to talk with your agent, family and doctor about your treatment decisions.

### **If I want to write down my choices, what kinds of things should I think about?**

Some people write about what treatments they want. Would they want CPR, a breathing machine (ventilator) or blood transfusions? This may not always be helpful because you may want blood transfusions, for example, in some cases but not in others. How much treatment would you want if ...

- A long course of treatment would provide a small chance of full recovery?
- You probably will never leave the hospital?
- You were going to be permanently unconscious?
- You would recover your mental capacity but would be paralyzed?
- Living longer meant being in pain?
- Treatment could extend your life but was very expensive?
- Treatment meant you would always need a kidney dialysis machine?
- You received nutrition through tubes in order to prolong your life?
- Treatment was not improving your quality of life?

It would probably help your agent(s), family and doctors to know what types of things you value in your medical care, for example:  
*How important is independence and self-sufficiency to you?*  
*What role do religious beliefs play in your life?*

*What is the importance of illness, disability and death to you?*

*What do you cherish or fear the most?*

These are hard things to talk about, so give yourself some time. It helps to talk to your family or friends and perhaps to a minister, priest or rabbi about this before you make any decisions.

## **Do I have to talk to everybody? Can't I just fill out the form and give it to my doctor?**

Talking to your agent(s), your family and your doctors helps them to understand what you want. More importantly, it helps them understand why you feel that way. Your wishes will be clearer to them if they have a chance to ask you questions. You want to be sure that everyone understands (1) the person you want to make decisions for you and (2) what decisions you want made.

## **What else is my agent(s) permitted to decide?**

You can use the Advance Health Care Directive form to express your wishes about the following:

- If you want to be an organ donor after your death
- If you want an autopsy completed after your death
- Your choice of funeral arrangements
- The doctor whom you wish to care for you

If you only name someone to be your agent without specifically outlining your health care wishes, that person can make all these decisions for you. It's important to think carefully about who will be your agent since that person will have significant decisions to make.

## **What do I do with the Advance Health Care Directive form once I have completed it?**

- 1) **Sign and date it and have your signature witnessed or notarized.**  
If you do not want to use witnesses, you must use a notary. If you have the form witnessed, you will need two witnesses. Neither witness may be your agent(s). One of them has to be

someone who is not related to you and who is not named in your will or entitled to inherit anything from you. If you are in a nursing home, one of the witnesses must be a patient advocate or ombudsman. Doctors, nurses, their employees or any other health care providers cannot be witnesses, even if they are not providing care for you. Your friends and neighbors can be witnesses.

- 2) **Make copies.** Your form should say that you authorize the use of copies as though they were originals. If this is not included in the form, write it on the form. Give one copy to your agent(s), one to your physician, and one to each family member who would know if you were hospitalized. You need to keep the original and put it in a safe place where you can get it easily – not in a safe deposit box. You may want to give a copy to your lawyer if you have one. But remember that your lawyer is not likely to be called if you are in the hospital and cannot make your own decisions. ***Be sure to take a copy with you when you go to a hospital or nursing home so it can be placed in your medical record.***

## **What if I change my mind or want to add something? Can I complete a new Advance Health Care Directive form?**

If you change your mind, you can cancel the form just by telling your agent(s), your family or your doctor that you have changed your mind. If you can, it is best to tell everyone involved so there will not be a mix-up. It is also a good idea to destroy old copies of the form. If you want to change and/or add something, you should complete a new form because it will overrule any previous form. Give copies of the new form to all the people who have copies of your original form so they will know about your changes. Everyone should destroy the old forms after you have made a new one.



## **Is this form good forever as long as I do not change my mind about anything?**

Unless you indicate a shorter time period on your Advance Health Care Directive form, it is good until you cancel it or write a new one. If you name your spouse as your “agent” and then you get a divorce, your former spouse stops being your agent. If you have written your choices about treatment in the form, your doctors can still use it to help make treatment decisions for you.

## **What if I do not have anybody I want to name as an agent(s)? Then what can I do?**

You can complete Part 2 of the form, the section labeled “Instructions for Health Care.” In this section, you may specifically state your choices.

## **Why should I bother with any of these Advance Directives?**

When you are not able to participate in making decisions about your treatment, someone will have to make those decisions for you. Thinking now about what you want and making clear plans are the best ways to ensure that the choices you want are made by the people you want to make them. It can help your family, friends and physicians know they are doing the right thing for you. If you have further questions about Advance Directives, please ask your doctor, nurse, social worker or patient advocate for help.

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