

ADVANCE DIRECTIVES

You have the right to state your wishes regarding your medical treatment.

Many people today are worried about the medical care they would be given should they become terminally ill and unable to communicate. They may not want to spend months or years dependent on life-support machines, or they may want every measure to be taken to sustain their life.

You have a choice.

A growing number of people are taking action before they become seriously ill. You may now state your health care preferences in writing, while you are still healthy and able to make such decisions.

Under federal law, this health care organization is required to provide you, the patient, an explanation of your rights under South Carolina law to make personal decisions regarding your own medical care. We are also required to ask you whether you have written down your wishes.

The following explains your options concerning the right to accept or refuse medical treatment and how you may make your wishes known about the care you want when you are unable to decide for yourself. It is not legal advice, but it serves as general and useful information designed to help you understand your rights under the law.

Q: What are my rights regarding medical treatment decisions?

You have the right to make your own medical treatment decisions. If you do not want certain treatments, you have the right to tell your doctor you do not want them.

Most patients can express their wishes to their doctor, but some who are seriously injured or unconscious cannot. However, you have the right to make your wishes known before such a situation occurs.

Q: What if I'm too sick to decide or unable to communicate my wishes?

Sometimes people can't tell their doctor about the kind of care they want because they become too sick and are unable to communicate. Under the law, you have the right to fill out a form – while you are still able – that tells your doctors what you want done if you are unable to communicate your wishes.

Q: What kinds of forms are available?

Under South Carolina law, there are two different forms you can use to make your wishes known.

DURABLE POWER OF ATTORNEY FOR HEALTH CARE

This form allows you to appoint someone as your agent to make all health care decisions for you, should you become terminally ill and unable to communicate, or temporarily or permanently unable to make decisions for yourself.

LIVING WILL

This form allows you to give advance written directions about all your health care decisions when you are terminally ill and unable to communicate, or in a permanently unconscious state.

These documents are also referred to as advance directives, because they are signed in advance to let your doctor and others know your wishes concerning medical treatment.

Q: Do I have to fill out these forms before I get medical care?

No person or health care provider can require you to fill out either of these forms. Completing one or both of these forms is a voluntary action on your part.

Q: Who can fill out these forms?

Any person at least 18 years old who can make their own decisions can fill out these forms.

Q: Do I need a lawyer?

No, you don't need a lawyer to fill them out. You may choose to discuss these matters with an attorney, but there is no requirement to do so.

Q: Do my health care providers have to follow my instructions?

Yes, if your directions comply with state law. However, the law includes a conscience clause in case your doctor is unable to follow your directions because they are in conflict with his or her conscience. In this case, you can be transferred to another doctor's care who will comply with your wishes.

DURABLE POWER OF ATTORNEY FOR HEALTH CARE

Q: Whom should I choose to make all my health care decisions for me if I am unable?

You can choose any adult relative or friend you trust to speak for you when you're unable to make your own decisions. Be sure you talk with that person about your decisions. Then write them down on a Durable Power of Attorney form. You should also talk to your doctor about your decisions.

Q: When does my Durable Power of Attorney take effect?

This document becomes in effect only when you are temporarily or permanently unable to make your own decisions about your treatment.

LIVING WILL

Q: What is the difference between a Durable Power of Attorney and a living will?

Your living will is your set of written instructions about the type of health care treatment you want when you are unable to communicate your wishes. Your Durable Power of Attorney allows you to choose a person to make your health care decisions for you when you are unable to do so yourself.

Q: If I have a Durable Power of Attorney, do I need a living will also?

Many people will want to have both documents because they can address different aspects of your medical care. A living will gives your instructions directly to your doctors and a Durable Power of Attorney appoints a person you have chosen to make health care treatment decisions for you.

Q: How does a living will work?

It spells out to what extent you want life-support technology used to prolong your life. It gives your caregivers the authority to follow your instructions regarding the medical treatment you want under certain conditions.

FOR PATIENTS WITHOUT A DURABLE POWER OF ATTORNEY OR A LIVING WILL

Q: If I don't have a living will or Durable Power of Attorney, who makes my health care decisions when

I'm terminally ill and unable to communicate or in a permanently unconscious state?

The law now recognizes an Order of Decision Makers in this situation. It is very similar to the current legally recognized next-of-kin priority order.

The law allows your next-of-kin:

To make all health care decisions if you are terminally ill and unable to communicate

To make decisions for the withdrawal of life support if you are in a permanently unconscious state only after a 12-month waiting period. However, this doesn't include the withdrawal of artificially supplied nutrition and hydration (food and water) except as explained below.

OTHER MATTERS TO CONSIDER

Q: What about withholding artificially supplied food and water?

The issue of whether you can authorize withholding of artificially supplied food and water (internal feeding tubes and fluid tubes) depends on your medical condition.

If you are terminally ill and unable to communicate, and if your living will or Durable Power of Attorney simply states that you don't want life-support technology used to prolong your life, then artificially supplied food and water may be withheld.

If you are in a permanently unconscious state, artificially supplied food and water may be withheld only if you have written specific instructions about artificially supplied food and water in your living will or Durable Power of Attorney.

If you don't have either of these forms, the law allows your next-of-kin to authorize the withholding of artificially supplied food and water when you are in a permanently unconscious state, but only after a 12-month waiting period, and approval from a probate court.

Q: Can I make changes to my forms?

Yes, at any time. It is always a good idea to review them to be sure they still reflect your views, and your old forms may not cover specific areas.