



Illinois Hospital Association

Planning Ahead

How to Make Future Health Care Decisions

NOW



Q&A

Questions & Answers

on Illinois Advance Directives

Illinois law gives you the right to accept or reject medical treatment. You also have the right to give directions, in advance, about the kind of health care you want if the time comes when you cannot make your own decisions.

Planning Ahead

You can control your future health care by signing a Power of Attorney for Health Care naming a trusted relative or friend to communicate for you, and by signing a document called a Living Will that tells others the kinds of life-sustaining treatment you want or don't want. These documents and others, called advance directives, are written statements you make, in advance, about your future medical treatment decisions.

This brochure explains the types of advance directives that Illinois law offers. The various documents for creating an advance directive may be found on the Illinois Department of Public Health's web site at www.idph.state.il.us. Click on "Advance Directives" and choose the link to the document you want to print.

Health Care Power of Attorney

What is a health care power of attorney?

A health care power of attorney is a document you sign that names another person, called your “agent,” to make health care decisions for you if you are unable to do so.

Who may create a health care power of attorney?

Any competent person at least 18 years old may create and sign a health care power of attorney. You don’t need a lawyer to complete the document.

Who can act as an agent?

Any person who is at least 18 years old and is able to understand and decide about health care matters can be an agent. However, no physician, nurse, or other health care provider who is giving you treatment may act as your health care agent. Most people choose a trusted relative or friend.

What happens if the person I appoint dies or is not able to serve as my agent?

You may name successor agents to step in and make decisions if your first choice is not able to act. However, you may not have more than one person serving as your agent at any one time.

What happens if I name my spouse as my agent and we are later divorced?

Your ex-spouse will no longer have authority to act under the health care power of attorney. Even so, you should attempt to destroy all copies of the power, because doctors or hospitals may rely on it if they do not know of the divorce.

Will my agent be held liable for my health care costs?

No, your agent will not be held personally responsible for the cost of health care services and treatment that he or she arranges.

How do I create a health care power of attorney?

The surest way is to complete and sign the Illinois Statutory Short Form Power of Attorney for Health Care. One witness must also sign the form, which may be found on the Illinois Department of Public Health’s web site.

What powers do I give to my agent by completing this form?

After the power of attorney for health care goes into effect, your agent may make any health care decision that you could make if you were able to do so. However, you can limit your agent’s powers or give your agent special instructions by clearly stating them in your power of attorney.

How do I tell my agent what life-sustaining treatment I want?

Talk personally with your agent and make sure he or she clearly understands your wishes about life-sustaining treatment. Section two of the Statutory Short Form Power of Attorney for Health Care is about life-sustaining treatment. You may:

1. Leave this section completely blank, giving your agent the broadest power to decide about life-sustaining treatment; **OR**
2. Write in your own instructions to your agent; **OR**
3. Choose one of the three optional statements that are included in the section.

Living Wills

What is a living will?

A living will (also called a “declaration”) is a document you sign that states that you do not want your physician to use death-delaying procedures if you develop a terminal condition.

Who may create a living will?

Any competent person at least 18 years old.

How do I create a living will?

The surest way is to fill out and sign the Living Will Declaration which may be found on the Department of Public Health’s web site. You, or another person at your direction, in the presence of two witnesses, must sign the Living Will.

Who can witness the signing of my living will?

Anyone at least 18 years old who is not entitled to inherit from your estate or financially responsible for your medical care.

When does a living will take effect?

When a physician certifies that you have a terminal condition.

What is a “terminal condition”?

A condition that cannot be cured or reversed, with death imminent, and with the use of death-delaying procedures merely prolonging the dying process.

What is a “death-delaying procedure”?

Death-delaying procedures serve only to postpone the moment of death. They may include assisted ventilation, artificial kidney treatments, medication, blood transfusions, and tube feeding.

If I have a living will, can I still receive pain medication?

Yes, your physician can provide you with pain medication or other care to make you comfortable.

What happens if I have a living will and a terminal illness and I am pregnant?

A living will does not take effect so long as the attending physician believes the fetus could develop to the point of live birth if death-delaying procedures are used for the mother.

Health Care Power of Attorney and Living Wills

How is a health care power of attorney different from a living will?

A living will takes effect only if you have a terminal illness and cannot speak for yourself. Also, it addresses only decisions concerning life-sustaining treatment. A health care power of attorney is broader and more flexible and, in that way, is preferable to a living will. Under a health care power of attorney, your agent can make health care decisions for you in any situation when you are unable to do so.

Should I have both a health care power of attorney and a living will?

Your living will does not take effect so long as your agent under a health care power of attorney is available and willing to make life-sustaining treatment decisions. If you do not wish to be kept alive by life-sustaining treatment, you should consider signing both documents because:

- The living will reinforces the intent of the power of attorney for health care.
- Your agent under the health care power of attorney may die or be unable or unwilling to act when it comes time to make health care decisions.

Will hospitals and physicians honor my living will and health care power of attorney?

Providers must comply with health care decisions of a health care agent or the directions stated in a living will unless they are morally opposed to them. If the provider is unwilling to comply, the provider must inform your agent who is then responsible for arranging your transfer to another provider.

For how long are my living will and power of attorney for health care effective?

They remain valid until you revoke them. However, you should sign a new form every two to three years, since health care providers are more likely to honor a recently signed document.

What should I do with my signed health care power of attorney and living will?

Copies should be given to the persons you have named as the agent and successor agents under the health care power of attorney. Give copies to your physician, family, and friends and discuss your wishes with them as well. Inform your agent where the original documents are kept.

In case of an emergency, how will a hospital know that I have a living will or who my health care agent is?

A hospital can locate your agent or living will if you complete the Health Care Agent/Living Will Wallet Identification Card on the last page of this pamphlet and carry it with you in your wallet or purse.

Can I revoke or change my health care power of attorney or my living will?

They can be revoked at any time, regardless of your physical or mental condition, by doing one of the following:

- Tear up or otherwise destroy the document; **OR**
- Revoke the document in writing, sign and date it, or direct someone else to do it for you; **OR**
- Express (orally or otherwise) in the presence of a witness at least 18 years old, your intent to revoke the document. Have the witness sign and date a statement confirming that such an expression of intent was made.

To change your health care power of attorney, write in the changes, and sign and date the document. To change your living will, revoke the current form, and sign a new one. Also, a court may revoke or change your documents if it believes clarification is needed or your agent is not acting in your best interests.

Should I have my living will and health care power of attorney notarized?

It is recommended that you have your documents notarized, since some other states require notarization.

Do-Not-Resuscitate (DNR) Orders

What is a DNR order?

Ordinarily, if your heart and/or breathing stop, health care providers will attempt to restore your heartbeat and breathing with various medical treatments, including cardiopulmonary resuscitation (CPR). A DNR order is a physician order that tells health care providers not to attempt CPR in the event your heart and/or breathing stop.

Who may have a DNR order?

An adult individual of sound mind and emancipated minors may consent to a DNR order.

How do I obtain a DNR order?

Your physician may write a DNR order for you in your medical chart while you are in the hospital. However, if you want other health care providers outside of the hospital to recognize and honor your DNR order, your physician should write the DNR order on the Illinois Department of Public Health's (IDPH) "Uniform DNR Advance Directive."

Why is it important to use the IDPH Uniform DNR Advance Directive?

Illinois law requires hospitals, nursing homes, and paramedics to honor DNR orders written on the IDPH Uniform DNR Advance Directive. Health care providers may not always recognize other DNR order forms. There is a risk that unwanted medical treatments might be given to you when your heartbeat and/or breathing stop if the DNR order is not on the IDPH Uniform DNR Advance Directive.

Who needs to sign a DNR order on the IDPH Uniform DNR Advance Directive?

Your physician must sign the DNR order. In addition, you or your legal representative must also sign your consent to the DNR order. Finally, two witnesses age 18 or over must sign that they witnessed you giving consent.

Where can I obtain more information about the IDPH Uniform DNR Advance Directive?

The Illinois Department of Public Health has published a set of guidelines for use by individuals who may choose to execute a DNR order using the IDPH Uniform DNR Advance Directive. The guidelines may be found on the Department's web site. Click on "Advance Directives."

Mental Health Treatment Preference Declaration

What is a mental health treatment preference declaration?

It is a document you sign to state your wishes to receive psychotropic drugs, electroconvulsive treatment, or be admitted to a mental health facility for up to 17 days, if you are unable to make your own decisions. You may either write your wishes or choose someone to make your mental health treatment decisions for you.

How does a mental health treatment preference declaration differ from other advance directives?

If you have a mental health treatment declaration and you need mental health treatment, you may not revoke the declaration. The Power of Attorney for Health Care and Living Will may be revoked at any time regardless of your mental condition.

How do I create a mental health treatment preference declaration?

Complete and sign the Declaration for Mental Health Treatment found on the Department of Public Health's web site.

Health Care Surrogates

What if I do not have a living will or power of attorney for health care?

Under the Illinois Health Care Surrogate Act, your physician may identify a "surrogate decision-maker" to make medical treatment decisions for you if you do not have a Power of Attorney for Health Care or a Living Will and you are unable to make your own health care decisions.

What decisions can a surrogate make?

A surrogate decision-maker can make decisions about your routine medical treatment. A surrogate decision-maker can also make decisions about life-sustaining treatment but only if two physicians say you have a terminal illness, permanent unconsciousness, or an irreversible condition that causes severe pain or imposes an inhumane burden on you. A surrogate decision-maker may not make decisions concerning electroconvulsive therapy, psychotropic drugs, or admission to a mental health facility.

Who may act as a surrogate?

Your physician will identify one person as your surrogate, in the following order of priority:

1. Court-appointed guardian
(most persons will not have a guardian)
2. Your spouse
3. Any of your adult children
4. Either of your parents
5. Any of your adult brothers or sisters
6. Any of your adult grandchildren
7. One of your close friends
8. Guardian of your estate

With a health care surrogate, why should I create a health care power of attorney?

A health care power of attorney allows you to name your agent and give him or her instructions now, while you are still able to communicate. A surrogate may not know your wishes.

Health Care Agent /Living Will Wallet Identification Card

My Name Is: _____

I have signed a Power of Attorney for Health Care authorizing my named agent to make my health care decisions for me if I am unable to do so.

My Health Care Agent Is: _____

Phone : (H) _____ (W) _____

My Successor Health Care Agent Is: _____

Phone : (H) _____ (W) _____

I have signed a Living Will. If I am suffering from a terminal condition, a copy may be obtained from:

Name: _____

Phone : (H) _____ (W) _____

Prepared by the IHA Legal Department June 2006.
For questions regarding Planning Ahead, please contact
630/276.5506

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