



ABOUT ADVANCE DIRECTIVES

Advance directive is a general term for oral or written instructions about future medical care if a person becomes incapable of stating his or her wishes. In these documents, both wanted and unwanted treatment may be specified. In Washington, there are three types of advance directives: the Health Care Directive, the Durable Power of Attorney for Health Care, and the Physician Orders for Life-Sustaining Treatment.

Remember, advance directives are only part of the process. Protecting your health care choices is a three-step process: *deciding* what you want; *communicating* your intentions so that others understand them; and *committing* your providers, family, and health care agent(s) to the acceptance (and sometimes defense) of your choices.

A Health Care Directive (also known as a living will, directive to physician, or physician directive) is a legal statement to all your health care providers that describes your general wishes or desires for end-of-life care. In particular, Health Care Directives speak to the question of whether and how you want to be kept alive by medical treatment if you are unable to make decisions. Your Health Care Directive should specifically state the life-sustaining treatments you do or do not want. These should include resuscitation, use of an artificial ventilator, and artificial nutrition and hydration. It should be in all your medical records.

When you present your Health Care Directive to your physician, ask if he or she will honor it. If not, find a physician who will. Most states do not require a specific form or format. In Washington, the basic form available covers only terminal illness, and End of Life Washington considers it too limited. In order to make a Health Care Directive legally binding, you must sign the document in the presence of two qualified, adult witnesses. *A Health Care Directive can prevent immense family conflict about your wishes for treatment if you become unconscious or unable to make medical decisions.*

A Durable Power of Attorney for Health Care (DPAHC) is the legal means by which you designate someone (referred to as your health care agent, surrogate decision maker, health care proxy, or attorney in fact) to make health care decisions if for any reason you should lose the capacity to do so. In the event that your primary agent is unable to make decisions on your behalf, you may also name an alternate agent. Anyone over the age of 18 may make a DPAHC, provided he or she is competent. Additionally, any individual over 18 can act as an agent or alternate agent, provided he or she is of sound mind and meets certain qualifications.

A DPAHC is limited to health care decisions and does not affect a power of attorney you may have for financial or other matters. Washington State law does not specifically require witnessing or notarizing your DPAHC. *A DPAHC stands up legally, particularly when the agent's decisions are consistent with directives contained in the patient's Health Care Directive.*

Once the DPAHC is in place, you continue to make your own care decisions for as long as you are able. It is only when you cannot make your wishes known that your health care agent can act. When you are again able to make your own decisions, your agent loses power to make decisions for you. It is very important to pick someone you trust and who knows your wishes. It is also important to choose an individual you feel can be assertive in the event that caregivers or family members challenge your wishes.

Communicate: Let your agent know exactly what kind of care you wish to have, and what types of treatment you do and do not wish to have. Make clear to other family members that your health care agent(s) will have final authority to act on your behalf. If you feel that certain family members will not honor your wishes, you may

include a statement directing physicians and the courts to disregard his or her demands and to follow only the directives of your agent(s). For the sake of all concerned, be sure to *discuss your intentions face-to-face*.

A **Physician Orders for Life-Sustaining Treatment (POLST)** form (formerly called the EMS - No CPR form) is intended for any adult, 18 years of age or older, with serious health conditions. You (or your health care agent) and your physician may use POLST to write clear and specific medical orders that indicate what types of life-sustaining treatment you want or do not want at the end of life. *Both the maker and a physician must sign the bright green form in order for it to be honored by other health care professionals.* No witnessing or notarizing is required. Emergency Medical Services (EMS) personnel are required to honor POLST, and it remains with you if you are transported between care settings. The POLST form is relatively new in Washington, and many physicians are still unaware of it. If your physician does not have POLST forms available, ask her or him to contact the Washington State Medical Association (see contact information below), or contact our office and request one. Properly completed, the POLST form is probably the most effective advance directive because your wishes are expressed as medical orders.

OTHER CONSIDERATIONS

After you complete your advance directives, send or give copies to your physician(s), lawyer, agent(s), family members, and other loved ones who should know about your wishes.

Health Care Directives have limitations. They are part of the health care planning process and should be best thought of as “living wishes.” In the real world of medical decision-making, fear of liability can keep providers from acting on patients’ intentions.

One of the best uses for a Health Care Directive is as a guide to the DPAHC agent. When the health care agent(s) acts within the general scope of the Health Care Directive, he or she is on solid legal ground. If there is no Health Care Directive, or the agent’s actions are not consistent with the Health Care Directive, the health care agent may be challenged. For these reasons, you should have both a DPAHC and a Health Care Directive.

Review your Health Care Directive and DPAHC occasionally to be sure they reflect your current preferences and values. To affirm that they reflect your current wishes, initial and date the documents whenever you review them.

End of Life Washington recommends that advance directives be signed and witnessed in the presence of a notary because it eliminates any doubt about the validity of your documents. Additionally, if you travel out of state, some states do require notarization.

THESE FORMS ARE AVAILABLE FROM:

- Your attorney or physician.
- End of Life Washington – 206.256.1636 or 877.222.2816 (toll free), info@EndofLifeWA.org or www.EndofLifeWA.org. End of Life Washington has a comprehensive combination Health Care Directive and DPAHC. We also have POLST forms available and a system called the *Wonderfile* for organizing your end-of-life documents.
- National Hospice and Palliative Care Organization, www.nhpco.org, provides basic advance directives online for each state.
- Washington State Medical Association – 206.441.9762 or 800.552.0612 provides basic advance directives. They provide POLST forms only to physicians and other medical providers.