

ADVANCE DIRECTIVE INFORMATION

NOTE: This Advance Directive Information and the form Living Will and Durable Power of Attorney for Health Care on the Arkansas Bar Association’s website are being provided to you as a public service and are not the substitute for the advice of an attorney. By providing this information and these forms, neither the Arkansas Bar Association nor its Health Law Section is providing legal advice to you. Consult an attorney if you need legal advice of any nature.

1. What are Advance Directives?

You have the right to make decisions about the care you want at the end of your life. If you are conscious and able to make your own decisions when the time comes, you will be able to decide and whether the doctor should withdraw treatment and when that should happen. It is when you do not have the ability to make or explain your own decisions that you need what is called an Advance Directive. An Advance Directive is a legal document in which you tell your choices for medical treatment or name someone to make medical decisions for you when you cannot. A “Living Will” is a type of Advance Directive. A “Durable Power of Attorney for Health Care” is another type of Advance Directive.

2. What is a Living Will?

A Living Will is a document which tells medical professionals and members of your family to what extent special means should or should not be used to keep your body alive if you are incurably ill or permanently unconscious. It allows you to tell others your health care choices in the event that you are unable to express your wishes.

3. Why Should I Have a Living Will?

A Living Will gives you a voice in decisions about your medical care when you are unconscious or too ill to communicate. As long as you are able to express your own wishes, your advance directive will not be used, and you can accept or refuse any medical treatment. But if you are unable to participate in decisions about your own treatment, a Living Will becomes important to ensure that your personal wishes are respected. Also, by preparing a Living Will, you can relieve those closest to you of the burden and stress of trying to guess what your wishes might be at a very emotional time.

4. When Does A Living Will Become Effective?

Your Living Will will become effective only when you are unable to make or communicate decisions about your care and are terminally ill with no hope of recovery or permanently unconscious.

5. Does A Living Will Mean I am Giving Up or Stopping Care?

No. Making a Living Will does not mean that you will be abandoned by your health care providers. A Living Will affects only measures which are deemed useless. Doctors and nurses will continue attending to your needs, and comfort care will continue.

6. How Do I Make a Living Will?

A Living Will must be in writing, signed by you or another person at your direction, and witnessed by two other adults. A form Living Will prepared by the Health Law Section of the Arkansas Bar Association is available on the Arkansas Bar Association’s website at

<http://www.arkbar.com>. You may also ask your attorney or health care provider for a form. It is a good idea to discuss your health care wishes with your loved ones and your physician before signing a Living Will.

7. What is a Durable Power of Attorney for Health Care?

By signing a Durable Power of Attorney for Health Care, you can choose another person as your representative to make health care decisions for you if you should become temporarily or permanently unable to make decisions. Your health care representative must make treatment decisions based on your known wishes. A Durable Power of Attorney for Health Care must be in writing, signed by you or another person at your direction, and witnessed by two other adults. A form Durable Power of Attorney for Health Care prepared by the Health Law Section of the Arkansas Bar Association is available on the Arkansas Bar Association's website at <http://www.arkbar.com>. You may also ask your attorney or health care provider for a form.

8. What Do I Do With My Living Will and Durable Power of Attorney for Health Care?

Keep the original documents in a safe and easily accessible place, and make an extra copy for yourself in case the original is lost or accidentally destroyed. It is important that your doctor and family members know about your Living Will and have a copy of it. Take your Living Will and Durable Power of Attorney for Health Care with you if you are admitted to the hospital.

9. What If I Change My Mind?

Your Living Will and/or Durable Power of Attorney for Health Care can be revoked at any time by telling your doctor and family members that your wishes have changed. You should tear up and throw away all copies of the document you have revoked.

10. What if I Choose Not To Have a Living Will and Have Not Signed A Durable Power Of Attorney For Health Care?

If you do not have a Living Will or a Durable Power of Attorney for Health Care, then decisions about your care may be made by a "surrogate decision-maker," such as certain relatives, a person appointed by a court, or a court itself. The surrogate decision-maker must make decisions based on what you would have wanted if you were able to express your decisions, but if you have not made your wishes known, then the surrogate decision-maker, together with your physician, will make treatment decisions for you based upon their opinions as to your best interest.

You are strongly encouraged to discuss your advanced directive options and decisions with your physician and family.