

Frequently Asked Questions About Advance Directives

1. What is a Living Will/Advance Care Plan?

A “Living Will” is the term used in Tennessee’s prior law. In 2004, Tennessee law changed the name of the form “Living Will” to “Advance Care Plan”.

An Advance Care Plan is a document that tells your doctor how you want to be treated if you are terminally ill or permanently unconscious. You can use a Living Will/Advance Care Plan to tell your doctor you want to avoid life-prolonging interventions such as cardiopulmonary resuscitation (CPR), kidney dialysis or breathing machines. You can use this form to tell your doctor you just want to be pain free and comfortable at the end of life. You may also add other special instructions or limitations in your form.

An [Advance Care Plan form](#) is included at this web site. You may create an Advance Care Plan by filling out this form and having it properly witnessed and/or notarized (see questions 13 and 14).

2. What is a Medical Power of Attorney?

A Medical Power of Attorney is a term used in the State’s law prior to 2004. In the new law this is referred to as an Appointment of Health Care Agent. An Appointment of Health Care Agent is another type of advance directive that allows you to name a person to make health care decisions for you if you are unable to make them for yourself.

An [Appointment of Health Care Agent form](#) is included at this web site. You may complete an Appointment of Health Care Agent form by filling out this form and having it properly witnessed and/or notarized (see questions 13 and 14).

3. How is the Appointment of Health Care Agent different from the Advance Care plan?

An Advance Care Plan provides directions to your doctor on how you want to be treated if you are terminally ill or permanently unconscious and unable to make decisions for yourself. An Advance Care Plan tells your doctor what you do not want unless you write in other specific instructions. It is a written record of decisions that you have made yourself.

On the other hand, the Appointment of Health Care Agent allows you to choose someone else to make health care decisions for you if you are too sick to make them for yourself. This person is called your Health Care Agent. Your Agent can make any health care decision that you could make if you were able. A Health Care Agent allows you to give specific instructions to your representative about the type of care you would want to receive.

The Appointment of Health Care Agent allows your decision maker to respond to medical situations that you might not have anticipated and to make decisions for you with knowledge of your values and wishes.

4. I am a young person in good health. Do I really need to create a formal Advance Directive?

Advance Directives are for all adults, including mature minors and emancipated minors. We never know when an accident or serious illness will leave us incapable of making our own health care decisions.

5. What if I already have a Living Will? Do I need to create an Advance Care Plan?

The new form developed for use has more detailed instructions and may best express your desires so one may want to create a new Advance Directive. If a new form is not created, the old form will be honored. The Advance Care plan includes both the Appointment of Health Care Agent and Advance Directives.

The Advance Care plan is a more flexible document and allows you to name someone to make decisions for you and provides directives for care if your quality of life becomes unacceptable.

Some people, however, do not have someone whom they trust or who knows their values and preferences. These people should consider creating an Advance Care Plan.

6. Should I complete a new Living Will or Medical Power of Attorney if I completed one before July 1, 2004?

On July 1, 2004, a new law went into effect that made several changes to the Living Will and Medical Power of Attorney forms. Most importantly the law created new forms with new terms for this process. The new forms are written in clear, easy to understand language. If you want to take advantage of these changes, you should complete those new forms – Advance Care Plan and Appointment of Health Care Agent. Any Living Will or Medical Power of Attorney completed prior to July 1, 2004 will be honored.

7. Can I combine my Living Will and Medical Power of Attorney in one form?

Yes. The new “Advance Care Plan” combines both forms.

8. Can I still make my own health care decisions once I have created an Advance Directive?

Yes. Your Advance Directive does not become effective until you are incapable of clearly expressing your own wishes. As long as you can do this, you have the right to make your own decisions.

9. If I decide to appoint a Health Care Agent, how should I choose my Agent?

Choose someone who knows your values and wishes, and whom you trust to make decisions for you. Do the same for a successor agent. Ask both to be sure they understand and agree to be your agent.

You may, but do not have to, choose a family member to be your agent. Regardless of your choice, your agent should be someone who will be available if needed and who will decide matters the way you would decide.

Name only one person each as your agent and your successor agent. Do not choose your doctor, or another person who is likely to be your future health care provider, as your agent or successor agent.

10. What instructions should I give my agent concerning my health care?

You may give very general instructions and preferences, or be quite specific. It would be helpful to your agent to have directions from you about life-prolonging intervention, particularly medically administered food and water (tube feedings), cardiopulmonary resuscitation (CPR), the use of machines to help you breathe, and organ and tissue donation.

Many people choose to write their agents a letter stating their personal values and wishes, their feelings about life and death, and any specific instructions, and to attach a copy of this letter to their Appointment of Health Care Agent Form.

Talk with your agents about your choices and personal values and beliefs. Make sure they know what is important to you. This information will help them make the decisions that you would make if you were able.

11. Can any person create an Advance Directive?

Yes. Any adult (including a mature or emancipated minor) who has the capacity to make decisions for himself or herself can create an Advance Directive.

12. Do I need a lawyer to create an Advance Directive?

No. Advance Care Plan and Appointment of Health Care Agent can be created without the assistance of a lawyer.

13. Who should witness my signature on my Advance Directive?

Your witnesses must be a competent adult who is not the agent and at least one (1) witness not related to you by blood or marriage or adoption. Choose persons who will not inherit any of your property.

14. How can I find a Notary Public if I choose to have my signature notarized?

Businesses such as banks, insurance agents, government offices, hospitals, doctors' offices, and automobile associations have or can direct you to a notary public.

15. What should I do with my Advance Directive after I sign it?

After your Advance Directive is signed, witnessed and/or notarized, give one copy each to your agent, your successor agent, your doctor, and your local hospital. Keep the original document in a safe location where it can be easily found. Your safe deposit box may not be the best place for your Advance Directive unless you are certain someone close to you has access to the safe deposit box if you become incapacitated.

Make sure your agent knows where the original is so it can be shown to your doctor on request. However, a photocopy of your Advance Directive is legally valid.

16. What if my doctor or my family does not agree with my treatment choices or health care decisions?

You can prevent this from happening by talking with your family and health care providers about your decisions and personal values and beliefs. If others understand your choices and the reasons for them, there is less of a chance that they will challenge them later.

If you have made your wishes known in an Advance Directive and a disagreement does occur, your doctor and your agent must respect your wishes. You have a right to refuse or consent to health care. If your doctor cannot comply with your wishes, he or she must transfer your care to another doctor.

The consent or refusal of your Appointed Health Care Agent is as meaningful and valid as your own. The wishes of other family members will not override your own clearly expressed choices or those made by your agent on your behalf.

17. Do I have to sign an Advance Directive to receive health care treatment?

No. A doctor or other health care provider cannot require you to complete an Advance Directive as a condition for you to receive services.

18. Will another state honor my Advance Directive?

Laws differ somewhat from state to state, but in general, a patient's expressed wish will be honored. No law or court has invalidated the concept of Advance Directives, and an increasing number of statutes and court decisions support it.

19. What if I change my mind about who I want to be my agent or about the kind of treatment I want?

You should review your Advance Directive periodically to make sure it still reflects your wishes. The best way to change your Advance Directive is to create a new one. The new Advance Directive will automatically cancel the old one. Be sure to notify all people who have copies of your Advance Directive that you completed a new one. Collect and destroy all copies of the old version.

20. How can I be sure that the wishes expressed in my Advance Directive will be followed?

Be sure your doctor has a current copy. Bring a copy with you if you are admitted to a health care facility. Tell people where you keep your Advance Directive.

21. How can I get more copies of the Advance Directives forms?

You may get copies from a local health care facility or you can download the forms at www.tennessee.gov/health and click on “Advance Directive Forms and Information”.