



Advance Directives for Healthcare Decision-Making in West Virginia

Frequently Asked Questions

1-877-209-8086

www.wvendoflife.org

This booklet is based on the West Virginia Health Care Decisions Act passed by the West Virginia Legislature in March 2000 and amended in 2002 and 2007. The Center hopes that this booklet will be of assistance to West Virginians in understanding and completing advance directives. The Center's website at www.wvendoflife.org contains a copy of the West Virginia Health Care Decisions Act and additional forms that can be downloaded. The information in this booklet is not considered to be legal advice.

Revised November 2015

What are “Advance Directives for Healthcare Decision-Making?” Why are They Important?

As an adult, you have the right to make your own healthcare decisions. Your physician and other healthcare providers must tell you about the nature of any proposed procedure or treatment, its probable benefits or effects, and any predictable discomfort, complications, or risks. You have the right to know about alternative treatments and their risks and benefits. You have the right to ask questions, and then you have the right to decide whether you want the treatment or not. Your right to accept medical or surgical treatment also includes the right to refuse it.

But what if you become incapable of making healthcare decisions for yourself because of injury or illness? Imagine that you are in a hospital, terminally ill with cancer, and are confused. Who will decide whether you should have CPR (cardiopulmonary resuscitation) if your heart should stop suddenly? Or what if you are 40 years old and are involved in a motor vehicle accident which leaves you permanently unconscious? Who will decide whether you are to be kept alive with life support in a coma? Or what if you have advanced Alzheimer’s disease and you develop a serious infection in a nursing home? Who will decide whether or not you will be hospitalized?

West Virginia Law Recognizes Two Types of Advance Directives: The Living Will and the Medical Power of Attorney

You can remain in charge of your health care, even after you can no longer make decisions for yourself, by creating a document called an “advance directive.”

West Virginia law recognizes two types of written advance directives for healthcare decision-making: the living will and the medical power of attorney. This site answers questions people often have when completing advance directives. Both forms have a special section for you to write in specific directions about circumstances in which you would not want CPR, a feeding tube, dialysis, or treatment with a breathing machine. You should discuss these directions with your family and physicians so they can better understand what is important to you in receiving medical treatment. If you want both forms to be contained in one document, you can complete a combined living will/medical power of attorney form. All three of these forms are available on our website at www.wvendoflife.org.

You can use these documents to let your family and physician know your decisions for health care if you become unable to speak for yourself. You can appoint someone you know and trust as your medical power of attorney representative to ensure that your choices are honored.

Submit your Advance Directive Forms to the WV e-Directive Registry

The West Virginia Center for End-of-Life Care (WVCEOLC) through the WV Health Information Network (WVHIN) has established the WV e-Directive Registry. With the permission of patients, this electronic registry houses and makes available to treating healthcare providers West Virginians’ advance directive forms, do not resuscitate cards, and Physician Orders for Scope of Treatment (POST) forms in a medical crisis. It is accessible 24/7 to healthcare providers and ensures that patients’ wishes will be respected throughout the continuum of healthcare settings.

So that your form can be found in a medical emergency, you are encouraged to submit your form to the Registry by FAXing it to 844-616-1415, mailing a copy to the WV e-Directive Registry, 1195 Health Sciences North, Morgantown, WV 26506, or scanning and uploading it online at <http://www.wvendoflife.org>. The current forms on the WVCEOLC site contain an Opt-In box which needs to be INITIALED. If you have an older form and would like to have your form included in the Registry, you must download and complete the Opt-In form on this website and send it to the Registry

along with your documents. The Opt-In form can be obtain by clicking this LINK [\(put link here\)](#)

West Virginia e-Directive Registry Sign-Up Form with Additional Required Demographic Information

In October 2010, West Virginia advance directive and medical order forms (DNR and POST) were changed to include more demographic information. West Virginia advance directives (Living Wills and Medical Powers of Attorney) and physician orders (DNR cards and POST forms) that do not include demographic information at the top of the form must have additional identifying information submitted in order to be added to the e-Directive Registry. With the patient's permission (or the medical power of attorney representative/surrogate's permission if the patient lacks capacity), fill in the information below and FAX or mail this form with a copy of **BOTH** sides of the advance directive and/or DNR card and/or POST form.

OPT-IN Initial in the box to the left if you give permission as the person or as the guardian, medical power of attorney representative, or surrogate decision maker of the person to have the attached or previously submitted Living Will, Medical Power of Attorney, POST form, and/or DNR card (if completed) included in the WV e-Directive registry and released to treating healthcare providers.

Please provide the following required information:

(Last Name/First/Middle Initial)

(Date of Birth)

(Address)

(City, State, Zip Code)

Gender (check one): (Male) (Female)

Last 4 numbers of your Social Security number: _____

Updating Demographic Information:

Please initial box below if only updating demographic information. Please fax or mail a completed copy of this revised form.

Demographic updates for previously submitted advance directive forms to e-Directive Registry.

WV e-Directive Registry
1195 Health Sciences North
P O Box 9022
Morgantown, WV 26506-9022
Phone: 877-209-8086

FAX: 844-616-1415

Frequently Asked Questions about Advance Directives

1. *What is a living will?*

A living will is a legal document that tells your physician how you want to be treated if you are terminally ill or permanently unconscious and cannot make decisions for yourself. A living will says that life-prolonging medical interventions that would serve only to prolong your dying should not be used. A living will only applies if you are terminally ill or permanently unconscious AND too sick to make decisions for yourself.

2. *What is a medical power of attorney?*

A medical power of attorney is a legal document, a type of advance directive, that allows you to name a person to make healthcare decisions for you if you are unable to make them for yourself.

3. *How is the medical power of attorney different from the living will?*

A living will is only in effect if you are terminally ill or permanently unconscious AND too sick to make decisions for yourself. A living will tells your physician what treatment you do and do not want. You can write in other specific instructions. A living will is a written record of decisions that you have made yourself.

On the other hand, the medical power of attorney allows you to choose someone else to make healthcare decisions for you if you are too sick to make them for yourself. This person is called your medical power of attorney representative. Your representative can make any healthcare decision that you could make if you were able. A medical power of attorney allows you to give specific instructions to your representative and our physician about the type of care you would want to receive.

The medical power of attorney allows your representative 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 healthcare decisions.

5. *What if I already have a living will? Do I need to create a medical power of attorney?*

Most West Virginians complete both a medical power of attorney and a living will. Since the medical power of attorney is a more flexible document and allows you to name someone to make decisions for you, it is advisable to create a medical power of attorney even if you have already signed a living will or decide not to do a living will.

The person you appoint as your medical power of attorney representative can help see that the preferences expressed in your living will are carried out. Some people, however, do not have someone whom they trust or who knows their values and preferences. These people should consider creating a living will so that they can leave specific directions about their end-of-life treatment.

If you choose to sign both documents, you should store them in the same place to help assure that your representative will know to respect all of your wishes. You may also complete a combined living will and medical power of attorney document which combines both documents into one form. The Center for End-of-Life Care strongly encourages you to submit your advance directive to the e-Directive Registry so that your wishes will be known and respected.

6. *Should I complete a new living will or medical power of attorney if I completed one before June 11, 2000?*

On June 11, 2000, a new West Virginia law went into effect that made several changes to the living will and medical power of attorney forms. Most importantly, the new law requires only one physician to decide whether you are able to make your own healthcare decisions. Forms completed prior to the new law required two physicians to make this determination. The new forms also are written in clearer, easy-to-understand language. If you want to take advantage of these changes, you should complete a new living will and medical power of attorney.

7. *Can I combine my living will and medical power of attorney in one form?*

Yes. If you do not want CPR, feeding tubes, breathing machines, or other life-prolonging interventions if you become terminally ill or permanently unconscious, then you can use one document that combines both the living will and the medical power of attorney forms.

8. *Can I still make my own healthcare decisions once I have created an advance directive?*

Yes. Your advance directive does not go into effect until you are no longer able to state your own wishes. As long as you can do this, you make your own decisions.

9. *If I decide to create a medical power of attorney, how should I choose my representative?*

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

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

Name only one person each as your representative and your successor representative. Do not choose your physician, or another person who is likely to be your future healthcare provider, as your representative or successor representative.

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

You may give very general instructions and preferences, or be quite specific. It would be helpful to your representatives to have directions from you about medical conditions in which you would NOT want life-prolonging intervention, particularly medically administered food and water (tube feedings), cardiopulmonary resuscitation (CPR), and the use of machines to help you breathe. You should also tell your representative if you want to be an organ and tissue donor.

Some people choose to write their representatives 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 medical power of attorney.

Talk with your representatives 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 him or herself can create an advance directive.

12. *Do I need a lawyer to create an advance directive?*

No. Both the medical power of attorney and living will can be created without the assistance of a lawyer. Both can be downloaded for free from the Center's website at www.wvendoflife.org or obtained by calling the Center at 877-209-8086.

13. *Who should witness my signature on my advance directive?*

Your witnesses must be at least 18 years of age and not related to you by blood or marriage. Choose persons who will not inherit any of your property. Do not choose the person you named as your representative or your successor representative or your physician as your witness.

14. *How can I find a Notary Public to complete my medical power of attorney form?*

Businesses such as banks, insurance agents, government offices, hospitals, physicians' 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 notarized, give one copy each to your representative, your successor representative, your physician, and your local hospital. Keep the original document in a safe location where it can be easily found. Your safe deposit box is most likely NOT 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 representative knows where the original is so it can be shown to your physician on request. A photo copy of your advance directive is legally valid.

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The advance directive forms on the WV Center for End-of-Life Care web page contain an Opt-In box. If you would like to have your advance directive forms included in the Registry, you must **INITIAL** the box giving your permission to do so and **FAX** the forms to the Registry at 844-616-1415. If your advance directive form is older and does not contain the Opt-In box at the top, you can complete the WV e-Directive Registry Sign-Up form by clicking this [LINK](#).

You may submit your advance directive forms, do not resuscitate card, or Physician Orders for Scope of Treatment (POST) form to the WV e-Directive Registry by FAXing the forms or document to 844-616-1415. If you do not have a FAX machine available, you may mail a copy of your forms to the WV e-Directive Registry, 1195 Health Sciences North, Morgantown, WV 26506.

16. *What if my physician or my family does not agree with my treatment choices or healthcare decisions?*

You can prevent this from happening by talking with your family and healthcare 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, by law your physician and your representative must respect your wishes. You have a right to refuse or consent to health care. If your physician refuses to respect your wishes, he or she must transfer your care to another physician.

The consent or refusal of your medical power of attorney representative 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 representative on your behalf.

17. *Do I have to sign an advance directive to receive healthcare treatment?*

No. A physician or other healthcare 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 wishes 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. Many if not most states will honor your advance directives.

19. *What if I change my mind about who I want to be my representative 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.

Remember to submit your new advance directive to the WV e-Directive Registry by FAXing it to 844-616-1415 or mailing a copy to the WV e-Directive Registry, 1195 Health Sciences North, Morgantown, WV 26506.

20. *How can I be sure that the wishes expressed in my advance directive will be followed?*

Be sure your physician and hospital have a current copy. Bring a copy with you if you are admitted to a healthcare facility. Tell people where you keep your advance directive. FAX a copy of your advance directive to the WV e-Directive Registry at 844-616-1415, so that your wishes will be known in a medical emergency.

21. *If my heart should stop, I want to be resuscitated in my current condition. Can I request CPR on my living will?*

A request for CPR on your living will is contradictory to the purpose of the living will. It is not recommended. Remember that a living will only goes into effect if you are terminally ill or permanently unconscious AND too sick to make decisions for yourself. In such circumstances, CPR is very unlikely to be effective. Instructions on the living will do not apply to healthy individuals. However, if you do decide that you want to request CPR on your living will, consider adding an extra sentence in the Special Directives or Limitations section to address a deterioration in your health: “If CPR is deemed to be medically ineffective for me at sometime in the future by my physician, I authorize my medical power of attorney representative to consent to a Do Not Resuscitate order for me at that time.”

22. *Can I write my wishes for funeral arrangements on my advance directive?*

Yes, you can give the person you name as your medical power of attorney representative the authority to make decisions for you about funeral arrangements or cremation. The way to do so is to write instructions in the Special Directives or Limitations on this section of the medical power of attorney form or the combined medical power of attorney-living will form. To grant authority to your medical power of attorney representative, include a sentence as follows: “I authorize my representative to make decisions regarding my funeral arrangements or cremation.”