

Advance Directives



Advance Directives for Healthcare Decision Making

People have the right to make their own healthcare decisions. Advance Directives can help people communicate their treatment choices to their doctor, family, and friends if they are unable to make their own decisions because of injury or illness.

Imagine that you are in a hospital, terminally ill with cancer and become 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 that leaves you permanently unconscious. Who will decide whether you are to be kept alive with tube feedings? Or what if you have Alzheimer's disease, live in a nursing home, and develop a serious infection. Who will decide whether or not you should be hospitalized and treated with antibiotics?

You can remain in charge of your healthcare, even after you can no longer make decisions for yourself, by signing either an Advance Care Plan or an Appointment of Healthcare Agent. These forms are known as Advance Directives.

The decision to make an advance directive is a personal one and should only be made after careful consideration. Before you make your decision, you may want to talk with your family, friends, pastor, doctor, or lawyer. If you have any general questions about advance directives while you are a patient at the University of Tennessee Medical Center, a patient representative (305-9812) or nursing supervisor (305-9800) will be happy to assist you and your family.

Frequently Asked Questions about Advance Directives

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

Living Will is the term used in an old Tennessee law. In 2004, Tennessee law changed the name of the form from 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 have an irreversible condition (it will not improve). You can use an 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 an Advance Care Plan 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 the end of this packet.)

2. What is a Medical Power of Attorney?

A Medical Power of Attorney is a term used in Tennessee's law before 2004. In the new law, this form is referred to as an Appointment of Healthcare Agent. An Appointment of Healthcare Agent is another 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. (An Appointment of Healthcare Agent form is included at the end of this packet.)

3. How is the Advance Care Plan different from the Appointment of Healthcare Agent?

An Advance Care Plan only applies if you have an irreversible condition (it will not improve) and are too sick to make decisions for yourself. Unless you write in other specific instructions, an Advance Care Plan only tells your doctor what you do not want. It is a written record of decisions that you have made yourself. On the other hand, the Appointment of Healthcare Agent allows you to choose someone else to make healthcare decisions for you if you are too sick to make them. This person is called your healthcare agent. Your agent can make any healthcare decision that you could make if you were able. The Appointment of Healthcare Agent allows you to give specific instructions to your agent about the type of care you would want to receive. The Appointment of Healthcare Agent also 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, mature minors, and emancipated minors, regardless of their current health. You never know when an accident or serious illness will leave you incapable of making your own healthcare decisions.

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

The new Advance Care Plan has more detailed instructions and may be the best way to express your desires; so, you may want to create a new advance directive. The Advance Care Plan is a more flexible document; it allows you to provide directives for care if your quality of life becomes unacceptable and, if you choose, it can also be used to name someone to make decisions for you. If a new form is not created, the old Living Will is still valid.

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 Tennessee 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 Advance Care Plan and Appointment of Healthcare Agent. These new forms are written in clear, easy to understand language. If you want to take advantage of these changes, you should complete the new forms. Any Living Will or Medical Power of Attorney completed before July 1, 2004 is still valid.

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

Yes. The new Advance Care Plan combines both of these old forms. It can be used to record your decisions for care if your quality of life becomes unacceptable and to appoint a healthcare agent.

8. Can I still make my own healthcare 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 healthcare decisions.

9. If I decide to appoint a healthcare agent, how should I choose my agent?

Choose someone who knows your values and wishes and who you trust to make decisions for you. You should also appoint a successor agent. Ask both to be sure they understand and agree to be your agent. While you do not have to, you may want 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 healthcare provider, to act as your agent or successor agent.

10. What instructions should I give my agent concerning my healthcare?

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 interventions, 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 attach a copy of the letter to their Advance Care Plan or Appointment of Healthcare 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 you would make if able to do so.

11. Can any person create an advance directive?

Yes. Any adult, mature minor 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. The Advance Care Plan and Appointment of Healthcare Agent can be created without the assistance of a lawyer.

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

Your witnesses must be competent adults who are not your agent, and at least one (1) witness must not be related to you by blood, 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 usually have notaries on staff 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 sure someone close to you has access to the safe deposit box if you become incapacitated. Make sure your agents know where the original document 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 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, they are less likely to 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 consent to or refuse healthcare. If your doctor cannot comply with your wishes, he or she must transfer your care to another doctor. The consent or refusal of your 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 healthcare treatment?

No. A hospital, doctor, 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 Tennessee advance directive?

Laws differ 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.

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 of your advance directive. Take a copy with you if you are admitted to a healthcare facility. Tell people where you keep your advance directive.

21. How can I get more copies of the advance directives forms?

Copies of the Advance Care Plan and Appointment of Healthcare Agent forms are attached to this informational packet. You may also get copies from the Tennessee Department of Health.

22. What if I am too sick to make my own healthcare decisions and don't have an advance directive?

Under the new Tennessee law, if you do not have an advance directive and become too sick to make your own healthcare decisions, your physician will designate/appoint a member of your family (or a close friend) to make decisions for you. This person is called your surrogate. The law includes a list of persons, in descending order of preference, that your physician will consider to act as your surrogate:

- Spouse, unless legally separated
- Adult child
- Parent
- Adult sibling
- Other adult relative
- Any other adult

23. How does my physician decide which person on the list should be my surrogate?

In determining the person best qualified to serve as your surrogate, Tennessee law says that your physician should consider the following things:

- Who reasonably appears best able to make decisions based on your wishes or in your best interest?
- Who is in regular contact with you, both prior to or during current illness?
- Who demonstrates care and concern for you?
- Who is available to visit with you?
- Who is available to meet personally with your health care providers to ensure full participation in the decision-making process?

24. What if I am too sick to make my own healthcare decisions and don't have an advance directive and there is no one to act as my surrogate?

Your physician may make necessary healthcare decisions for you if you are unable to make them and do not have an advance directive, agent or surrogate or if your agent or surrogate is unavailable. Before making any healthcare decision on your behalf your physician must get a recommendation from the hospital's ethics committee or agreement from a second physician who is not involved in your treatment.

Advance Care Plan

Instructions: Competent adults and emancipated minors may give advance instructions using this form or any form of their own choosing. To be legally binding, the advance care plan must be signed and either witnessed or notarized.

I, _____, hereby give these advance instructions on how I want to be treated by my doctors and other health care providers when I can no longer make those treatment decisions myself.

Agent: I want the following person to make healthcare decisions for me, including: decisions to accept or refuse any treatment, service, or procedure; decisions to provide, withhold, or withdraw life-sustaining treatments and artificial nutrition and hydration; and decisions regarding organ donation, burial arrangements, and autopsy:

Name: _____ Phone #: _____ Relation: _____

Address: _____

Alternate Agent: If the person named above is unable or unwilling to make healthcare decisions for me, I appoint as alternate:

Name: _____ Phone #: _____ Relation: _____

Address: _____

Quality of Life:

I want my doctors to help me maintain an acceptable quality of life including adequate pain management. A quality of life that is unacceptable to me means when I have any of the following conditions. **Checking the box means the condition is UNACCEPTABLE to me. (You can check as many of these items as you want.)**

- Permanent unconscious condition:** I become totally unaware of people or surroundings with little chance of ever waking up from the coma.
- Permanent confusion:** I become unable to remember, understand, or make decisions. I don't recognize loved ones or can't have a clear conversation with them.
- Dependent in all activities of daily living:** I am no longer able to talk clearly or move by myself. I depend on others for feeding, bathing, dressing, and walking. Rehabilitation or any other restorative treatment will not help.
- End-state illnesses:** I have an illness that has reached its final stages in spite of full treatment. Examples: widespread cancer that doesn't respond anymore to treatment; chronic and/or damaged heart and lungs, where oxygen is needed most of the time and activities are limited due to the feeling of suffocation.

Treatment:

If my quality of life becomes unacceptable to me and my condition is irreversible (that is, it will not improve), I direct that medically appropriate treatment be provided as follows. **Checking "yes" means I WANT the treatment. Checking "no" means I DO NOT want the treatment.**

- Yes No **CPR (cardiopulmonary resuscitation):** To make the heart beat again and restore breathing after it has stopped. Usually this involves electric shock, chest compressions, and breathing assistance.
- Yes No **Life support/other artificial support:** Continuous use of breathing machine, IV fluids, medications, and other equipment that helps the lungs, heart, kidneys and other organs to continue to work.
- Yes No **Treatment of new conditions:** Use of surgery, blood transfusions, or antibiotics that will deal with a new condition but will not help the main illness.
- Yes No **Tube feeding/IV fluids:** Use of tubes to deliver food and water to patient's stomach or use of IV fluids into a vein which would include artificially delivered nutrition and hydration.
(Patient)

Other instructions, such as burial arrangements, hospice care, etc.:

 (Attach additional pages if necessary)

Organ donation (optional): Upon my death, I wish to make the following anatomical gift (please mark one):

- NONE Any organ/tissue My entire body Only the following organs/tissues:

Signature

Your signature should either be witnessed by two competent adults OR notarized. If witnessed, neither witness should be the person you appointed as your agent, and at least one of the witnesses should be someone who is not related to you or entitled to any part of your estate.

Signature: _____ Date: _____
 (Patient)

Witnesses:

1. I am a competent adult who is not named as the agent.
 I witnessed the patient's signature on this form. _____
 Signature of witness number 1

2. I am a competent adult who is not named as the agent.
 I am not related to the patient by blood, marriage, or adoption
 and I would not be entitled to any portion of the patient's estate
 upon his or her death under any existing will or codicil or by operation
 of law. I witnessed the patient's signature on this form. _____
 Signature of witness number 2

This document may be notarized instead of witnessed:

STATE OF TENNESSEE COUNTY OF _____

I am a Notary Public in and for the State and County named above. The person who signed this instrument is personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who signed as the "patient". The patient personally appeared before me and signed above or acknowledged the signature above as his or her own. I declare under penalty of perjury that the patient appears to be of sound mind and under no duress, fraud, or undue influence.

My commission expires: _____

 Signature of Notary Public

What to do with this advance directive

- Provide a copy to your physician(s)
- Keep a copy in your personal files where it is accessible to others
- Tell your closest relatives and friends what is in the document
- Provide a copy to the person(s) you named as your healthcare agent

Appointment of Healthcare Agent

(Tennessee)

I, _____, give my agent named below permission to make healthcare decisions for me if I cannot make decisions for myself, including any healthcare decision that I could have made for myself if able including decisions to accept or to refuse any treatment, service, or procedure; decisions to provide, withhold, or withdraw life-sustaining treatments and artificial nutrition and hydration; and decisions regarding organ donation, burial arrangements, and autopsy. If my agent is unavailable or is unable or unwilling to serve, the alternate named below will take the agent's place.

Agent: _____ Alternate: _____
 Name Name

Address _____ Address _____

City _____ State _____ Zip Code _____ City _____ State _____ Zip Code _____

() _____ () _____
 Area Code Home Phone Number Area Code Home Phone Number

() _____ () _____
 Area Code Work Phone Number Area Code Work Phone Number

() _____ () _____
 Area Code Mobile Phone Number Area Code Mobile Phone Number

 Patient's name (please print or type) Date Signature of Patient (must be at least 18 or emancipated minor)

To be legally valid, either Block A or Block B must be properly completed and signed.

Block A Witnesses (2 witnesses required)

1. I am a competent adult who is not named above.
 I witnessed the patient's signature on this form. _____
 Signature of witness number 1

2. I am a competent adult who is not named above. I am not
 related to the patient by blood, marriage, or adoption and I
 would not be entitled to any portion of the patient's estate upon
 his or her death under any existing will or codicil or by operation
 of law. I witnessed the patient's signature on this form. _____
 Signature of witness number 2

Block B Notarization

STATE OF TENNESSEE COUNTY OF _____

I am a Notary Public in and for the State and County named above. The person who signed this instrument is personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is shown above as the "patient." The patient personally appeared before me and signed above or acknowledged the signature above as his or her own. I declare under penalty of perjury that the patient appears to be of sound mind and under no duress, fraud, or undue influence.

My commission expires: _____

 Signature of Notary Public

