

Your Health Care Preferences



Advance Directive & Durable Power of Attorney for Health Care Decisions Questions & Answers

I have AN ADVANCE DIRECTIVE. In case of MEDICAL EMERGENCY CONTACT:

Name: _____

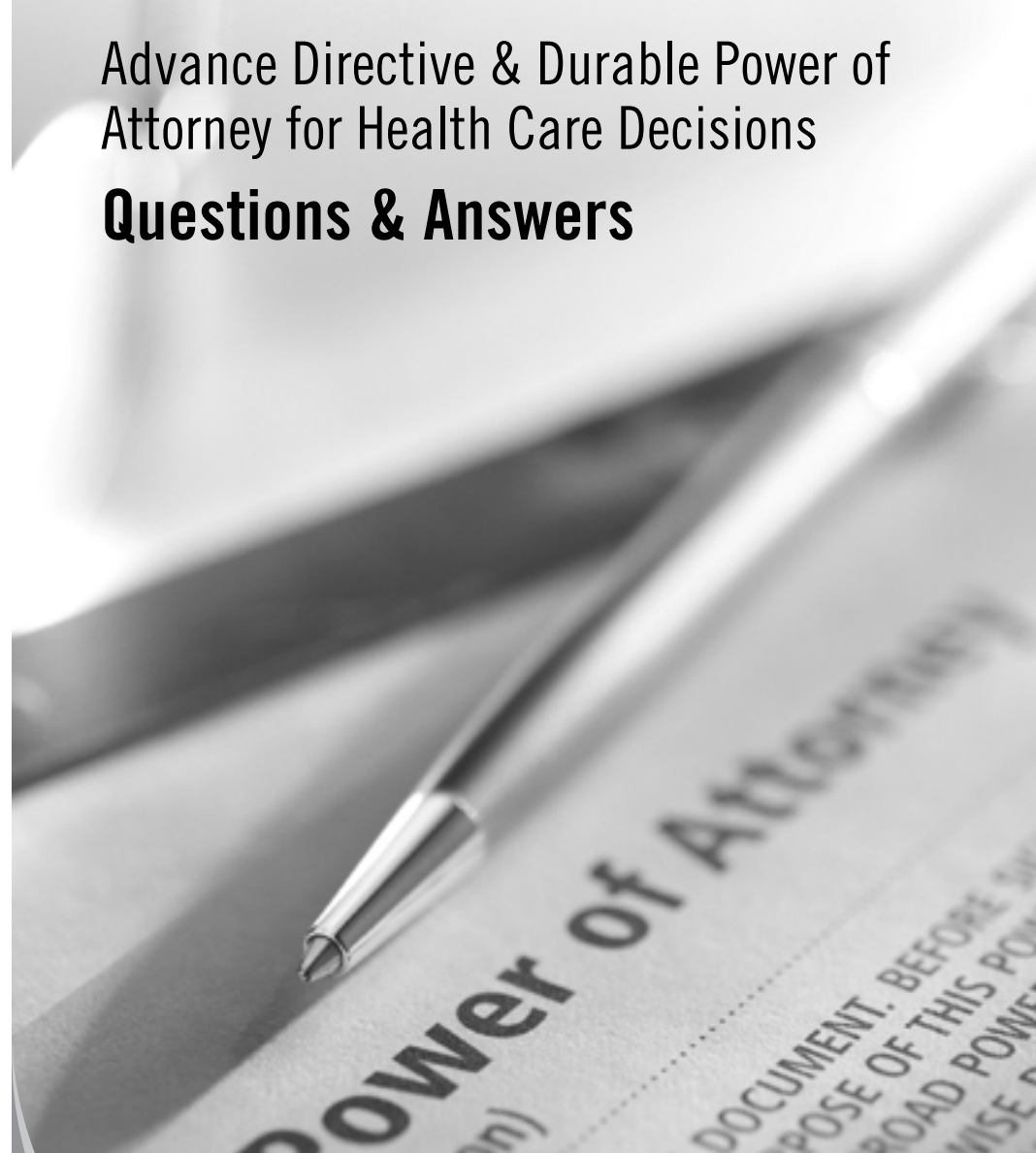
Address: _____

Telephone: _____

X _____

(Your signature)

Cut out above card and carry with you at all times.



ADVANCE DIRECTIVE is a general term used in this brochure to apply to both *Health Care Treatment Directive* and the *Durable Power of Attorney for Health Care Decisions*. It is a term also frequently used to refer to living wills. An advance directive allows you to communicate your health care preferences when you lose the capacity to make or communicate your own decisions. A U.S. Supreme Court decision (Cruzan) recognizes that all people have a constitutional right to refuse any medical treatment, including ventilators and feeding tubes. Further, state laws authorize you to name a person to make health care decisions for you when you cannot.

The Center for Practical Bioethics Center, the Kansas City Metropolitan Bar Association, and The Metropolitan Medical Society of Greater Kansas City have developed an advance directive that assists you in thinking about your options and documenting your wishes about health care. This advance directive has two parts:

1. Health Care Treatment Directive
2. Durable Power of Attorney for Health Care Decisions

These documents are intended to assure that your wishes are known and followed. They will be more helpful and informative if you discuss your wishes with your family, friends, and health care providers as part of your advance care planning.

HEALTH CARE TREATMENT DIRECTIVE

Health Care Treatment Directive is a document that allows you to state in advance your wishes regarding the use of life-prolonging procedures. Like a living will, *Health Care Treatment Directive* **has no effect until you can no longer make or communicate decisions for yourself.**

DURABLE POWER OF ATTORNEY FOR HEALTH CARE DECISIONS

The *Durable Power of Attorney for Health Care Decisions* allows you to appoint a person to make health care decisions for you. This document goes into effect **WHEN AND ONLY WHEN you cannot make or communicate decisions for yourself.**

THE BENEFIT OF COMMUNICATION

The greatest benefit of your advance directive is its power as a communication tool. Discuss your advance directive with your doctor; also, make your wishes about health care known to family, friends, clergy, and your attorney (if you have one). These need to be ongoing conversations.

17. May I request that artificially administered food and water (tube feedings) be withdrawn?

Yes. A clear and specific request in your directive should be honored.

18. May I make a provision for donating organs or tissues in my advance directive?

Yes. You may wish to make a statement in your advance directive and/or grant this authority to your agent.

19. Will my advance directive affect my life or health insurance?

No. Your signature on the advance directive will neither invalidate nor alter insurance policies, nor affect your ability to obtain life or health insurance.

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The Kansas City Metropolitan Bar Association and Foundation
The Metropolitan Medical Society of Greater Kansas City
Center for Practical Bioethics
Endorsed by:
Civic Health Foundation • Johnson County Medical Society
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Wyandotte County Medical Society

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This publication is intended to provide the public with law-related information. It is not intended to render legal advice. This foundation and its Board of Directors is not responsible for any information or representations provided herein.

14. Can my advance directive or decisions made by my agent be overridden by my family members?

If you have designated an agent, he/she has the same legal and moral authority to make health care decisions for you that you do. Discuss your advance directive and treatment preferences with your agent and your family when you complete the document. However, your agent may wish to obtain additional information from your family to assist him/her in making decisions.

15. Will my advance directive be honored in an emergency situation?

The Health Care Treatment Directive states that if a treatment may result in recovery of an acceptable quality of life, it should be tried for a reasonable period of time. Since, in an emergency situation, it may be impossible for health care providers to make this judgment, you should assume that treatment would be tried. If treatment does not lead to a significant recovery, you should expect that your advance directive would be honored and treatment that has proven to be ineffective should be withdrawn.

16. How can I describe what an “acceptable quality of life” means to me?

When completing an advance directive, think about what you personally mean by “acceptable quality of life.” There is no single “right” answer to this question. However, some questions to consider to determine what quality of life means to you include:

- Do religious values influence your treatment decisions? (If so, how?)
- How important is it for you to be able to care for yourself?
- What kind of living environment would you be willing to accept?
- How important is it to you to be able to recognize family and friends?
- What is your own “bottom line”? Under what circumstances would allowing death be preferable to sustaining life?

Your description should attempt to express your personal goals and values. To accomplish this task, you may need more space than is provided in the advance directive. If needed, additional pages may be attached to your document. (Any additional pages should be signed and dated.)

Do not hesitate to write down any thoughts you might have. Even simple and brief statements like, “I do not want life-prolonging support if I can no longer communicate, recognize people, and make decisions for myself,” can be very helpful to your health care providers.

Commonly Asked Questions About Advance Directives

1. How is the Health Care Treatment Directive different from a living will?

Health Care Treatment Directive is similar to a living will in that it is a signed, dated and witnessed document that allows you to state in advance your wishes regarding the use of life-prolonging treatment. You may use your *Health Care Treatment Directive* to state when to continue or when to discontinue life-prolonging treatment. Unlike a living will, this document is not restricted to use only when you are terminally ill; it becomes effective whenever you lose your ability to make and communicate decisions. It also provides an opportunity for you to identify and communicate your own goals and values.

2. Do I need both a *Health Care Treatment Directive* and a *Durable Power of Attorney for Health Care Decisions*?

While it is useful to have both, it is not necessary. Due to the complexity of health care, situations may arise that your Health Care Treatment Directive does not cover. To anticipate such events, you should name a person (agent) you trust to make decisions for you.

3. How is the *Durable Power of Attorney for Health Care Decisions* different from other powers of attorney?

Powers of attorney usually address business and financial matters and are no longer in effect when you lose decisional capacity. A *Durable Power of Attorney for Health Care Decisions* allows you to name a person (agent) to make health care decisions for you. It only takes effect when you lose the ability to make or communicate your own decisions. Some people choose to name separate agents for business and health care decisions and must use separate documents to do so. **This document addresses health care matters only.**

4. Whom should I name as my agent?

It is important that you name an agent who knows your goals and values and whom you trust to act in accordance with your wishes. You may name a family member, but it is not necessary to do so. You might choose your spouse, an adult child, or a close friend. Be sure to talk with your agent about your wishes in detail and confirm that he or she agrees to act on your behalf.

5. If I have already enacted a living will, do I need a Health Care Treatment Directive and/or Durable Power of Attorney for Health Care Decisions?

Your living will may not be as comprehensive as the Health Care Directions. Furthermore, your living will probably does not allow you to name an agent. If you decide to enact the more comprehensive *Health Care Treatment Directive* and/or *Durable Power of Attorney for Health Care Decisions*, be certain you notify persons to whom you have distributed your living will that it is revoked and provide them with a copy of your new advance directive.

6. If I have completed a document previously distributed by The Center for Practical Bioethics Center or the Kansas City Metropolitan Bar Association, do I need to revoke it and complete a new *Health Care Directions/Durable Power of Attorney for Health Care Treatment Directive*?

No. Previous documents are similar to the Health Care Treatment Directive/Durable Power of Attorney for Health Care Decisions. Some of the documents distributed prior to 1992 did not include a Durable Power of Attorney. It is always a good idea to review any previously completed documents, and discuss any needed changes with your health care providers.

7. Do I need an attorney to enact a *Health Care Treatment Directive* or a *Durable Power of Attorney for Health Care Decisions*?

No. However, you may want to discuss your advance directive with your attorney, if you have one.

8. Do advance directives need to be witnessed or notarized?

Yes. However, witnessing and notarizing requirements vary from state to state, and from document to document. Some states, such as Kansas, permit living wills and durable powers of attorney for health care to be either witnessed or notarized. But other states, such as Missouri, may require living wills to be witnessed and durable powers of attorney for health care to be notarized. States typically require witnessing by two adults and they may otherwise limit who may witness. For example, Kansas disqualifies persons as witnesses who are related to you, who will inherit from you or for whom you are financially responsible. **Because of state-to-state differences, it is a good idea to have advance directives both witnessed and notarized.**

9. What do I do with my advance directive after I've completed it?

- Make copies of your advance directive to provide to any agent(s) named in your Durable Power of Attorney for Health Care Decisions and other appropriate individuals (i.e. physicians, family, friends, clergy, and attorney).
- Discuss the details of your advance directive with these individuals.
- Ask your physician to make it a part of your permanent medical record.
- Whenever you are hospitalized, take a copy with you. Additionally, at the end of this brochure is a wallet-sized notification card that you may wish to clip out and carry with you.

10. When does my advance directive go into effect?

Your advance directive goes into effect **WHEN AND ONLY WHEN** you are no longer able to make or communicate your decisions. So long as you can make decisions, it is both your right and your responsibility to make your own decisions.

11. How long will my advance directive be effective? May I change or revoke it?

Your advance directive is effective until the time of your death, unless you revoke it. It is recommended that you review your advance directive periodically, especially when there is a change in your health status. Each time you review it, redate and initial it, and discuss any changes with your family, friends, and physician.

12. Will my advance directive be valid in another state?

Yes, especially if both notarized and witnessed

13. Can I expect health care providers to carry out the directions in my advance directive?

There are both legal and ethical duties for health care providers to follow patient directions, whether verbal or written.

Durable Power of Attorney for Healthcare Decisions

■ **Take a copy of this with you whenever you go to the hospital or on a trip** ■

It is important to choose someone to make healthcare decisions for you when you cannot make or communicate decisions for yourself. Tell the person you choose what healthcare treatments you want. The person you choose will be your agent. He or she will have the right to make decisions for your healthcare. If you DO NOT choose someone to make decisions for you, write NONE on the line for the agent's name.

I, _____, SS# _____ (optional), appoint the person named in this document to be my agent to make my healthcare decisions.

This document is a Durable Power of Attorney for Healthcare Decisions. My agent's power shall not end if I become incapacitated or if there is uncertainty that I am dead. This document revokes any prior Durable Power of Attorney for Healthcare Decisions. My agent may not appoint anyone else to make decisions for me. My agent and caregivers are protected from any claims based on following this Durable Power of Attorney for Healthcare. My agent shall not be responsible for any costs associated with my care. I give my agent full power to make all decisions for me about my healthcare, including the power to direct the withholding or withdrawal of life-prolonging treatment, including artificially supplied nutrition and hydration/tube feeding. My agent is authorized to

- Consent, refuse, or withdraw consent to any care, procedure, treatment, or service to diagnose, treat, or maintain a physical or mental condition, including artificial nutrition and hydration;
- Permit, refuse, or withdraw permission to participate in federally regulated research related to my condition or disorder
- Make all necessary arrangements for any hospital, psychiatric treatment facility, hospice, nursing home, or other healthcare organization; and, employ or discharge healthcare personnel (any person who is authorized or permitted by the laws of the state to provide healthcare services) as he or she shall deem necessary for my physical, mental, or emotional well-being;
- Request, receive, review, and authorize sending any information regarding my physical or mental health, or my personal affairs, including medical and hospital records; and execute any releases that may be required to obtain such information;
- Move me into or out of any State or institution;
- Take legal action, if needed;
- Make decisions about autopsy, tissue and organ donation, and the disposition of my body in conformity with state law; and
- Become my guardian if one is needed.

In exercising this power, I expect my agent to be guided by my directions as we discussed them prior to this appointment and/or to be guided by my Healthcare Directive (see reverse side).

If you DO NOT want the person (agent) you name to be able to do one or other of the above things, draw a line through the statement and put your initials at the end of the line.

Agent's name _____ Phone _____ Email _____

Address _____

If you do not want to name an alternate, write "none."

Alternate Agent's name _____ Phone _____ Email _____

Address _____

Execution and Effective Date of Appointment

My agent's authority is effective immediately for the limited purpose of having full access to my medical records and to confer with my healthcare providers and me about my condition. My agent's authority to make all healthcare and related decisions for me is effective when and only when I cannot make my own healthcare decisions.

SIGN HERE for the *Durable Power of Attorney and/or Healthcare Directive* forms. Many states require notarization. It is recommended for the residents of all states. Please ask two persons to witness your signature who are not related to you or financially connected to your estate.

Signature _____ Date _____

Witness _____ Date _____

Notarization:

On this _____ day of _____, in the year of _____, personally appeared before me the person signing, known by me to be the person who completed this document and acknowledged it as his/her free act and deed. IN WITNESS WHEREOF, I have set my hand and affixed my official seal in the County of _____, State of _____, on the date written above.

Notary Public _____

Commission Expires _____

Healthcare Treatment Directive

■ *If you only want to name a Durable Power of Attorney for Healthcare Decisions, draw a large X through this page.* ■

I, _____, SS# _____ want everyone who cares for me to know what healthcare I want.
(optional)

I always expect to be given care and treatment for pain or discomfort even if such care may affect how I sleep, eat, or breathe. I would consent to, and want my agent to consider my participation in federally regulated research related to my disorder or condition.

I want my doctor to try treatments/interventions on a time-limited basis when the goal is to restore my health or help me experience a life in a way consistent with my values and wishes. I want such treatments/interventions withdrawn when they cannot achieve this goal or become too burdensome to me.

I want my dying to be as natural as possible. Therefore, I direct that no treatment (including food or water by tube) be given just to keep my body functioning when I have

- a condition that will cause me to die soon, or
- a condition so bad (including substantial brain damage or brain disease) that I have no reasonable hope of achieving a quality of life that is acceptable to me.

An acceptable quality of life to me is one that includes the following capacities and values. (Describe here the things that are most important to you when you are making decisions to choose or refuse life-sustaining treatments.)

Examples: • recognize family or friends • make decisions • communicate
 • feed myself • take care of myself • be responsive to my environment

If you do not agree with one or other of the above statements, draw a line through the statement and put your initials at the end of the line.

In facing the end of my life, I expect my agent (if I have one) and my caregivers to honor my wishes, values, and directives.

Be sure to sign the reverse side of this page even if you do not wish to appoint a Durable Power of Attorney for Healthcare Decisions

Talk about this form and your ideas about your healthcare with the person you have chosen to make decisions for you, your doctors, family, friends, and clergy. Give each of them a completed copy.

You may cancel or change this form at any time. You should review it often. Each time you review it, put your initials and the date here. _____

This document is provided as a service by the Center for Practical Bioethics.
For more information, call the Center for Practical Bioethics at 816-221-1100
Email – bioethic@practicalbioethics.org • Website – www.practicalbioethics.org