

Know how. Know now.

HEF585 Participant's Guide

Make Sure It's Done the Way You Want: Advance Directives

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"Research shows that more than 80 percent of us die in a hospital or nursing home. Advances in medical technology can now prolong life as never before. The quality of that life, however, may be greatly reduced. As a result, many patients, families, and caregivers face difficult questions about how much technology to use when a patient cannot get better. This means most of us will face a decision about whether to use life-sustaining treatments at the end of our lives. If we cannot speak for ourselves at that point, other people will have to make those decisions for us." — Caring Connections

Since December 1991, the Patient Self-Determination Act passed by Congress ensures that people know their rights regarding advance directives. Health care institutions are required by law to tell adult patients about the legal right to accept or refuse medical treatment. The Nebraska Rights of the Terminally Ill Act gives Nebraskans 19 years of age and older the right to prepare written instructions for their physicians about the use of life-sustaining measures if their condition is terminal.

What are Advance Directives?

Advance directives are written documents stating personal wishes for medical care in the event someone is unable to communicate such desires due to illness or incapacity. The term "advance directives" refers to both living wills and power of attorney for health care. Such documents help ensure that personal wishes about medical treatment are respected. They provide assistance to those who must make decisions for another person, and may name someone to make such health care decisions if a person is unable to do so.

In Nebraska, the most common advance directives are a living will (officially called a "declaration") and a durable power of attorney for health care. Medical directives, including a specific list of medical procedures, are often part of either document. Medical directives allow someone to specify the care and procedures they want, do not want, or are unsure about, and provide valuable information for others to make decisions.

What is a Living Will?

A living will is so named because it takes effect while someone is still living. This written document provides guidance for health care providers about the type of life-sustaining measures a person wishes to receive or not receive when medical professionals have determined there is no possibility for recovery.

Once executed, a living will cannot be overridden by the wishes of family members who might not agree with terms of the document.



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Life-Sustaining Treatments

An important component of the living will is instructions about life-sustaining treatments (also called life support or life-prolonging treatments). Such medical procedures are used to replace or support a failing bodily function necessary for life. They include a ventilator, dialysis, artificial nutrition and hydration, and CPR including artificial respiration, chest compression, electric shock or drugs, and/or fluids or medication given by vein.

To learn more about the beneficial and negative consequences of using life-sustaining treatment, talk with the doctor or other knowledgeable health care professional. In addition, publications online from the National Hospice and Palliative Care Organization discuss common types of life-sustaining treatment in detail.

What is a Power of Attorney for Health Care?

A power of attorney for health care allows someone (called the "principal") to authorize another person to act as their agent or attorney-in-fact. The agent will make health care decisions for the principal when that person is unable to do so, not just at the end of life.

What Advance Directives Are Not

A living will is not the same as a last will and testament and/or a living trust. A last will and testament and/or living trust defines property distribution at death. The living will provides instruction for end-of-life, health care decision making.

A durable power of attorney for health care is not the same as power of attorney for financial issues. A power of attorney for health care names an agent to make health care decisions for the principal. The power of attorney used for financial affairs empowers someone else to make financial decisions for the principal.

Are Both a Living Will and Durable Power of Attorney for Health Care Needed?

While the decision to have either or both is a personal one, each advance directive offers a distinct advantage. The living will addresses end-of-life situations only. The durable power of attorney for health care appoints someone to make health care decisions in situations beyond just those involving end-of-life. In Nebraska, it is possible to do a living will within the durable power of attorney for health care.

General Requirements for Advance Directives

An advance directive should be written, dated, and completed while someone still knows what they want and can express their health care wishes. Two witnesses or a notary public must sign the document. In Nebraska, anyone legally married or divorced or at least 19 years of age may do an advance directive.

When do Advance Directives Take Effect?

Advance directives are valid as soon as they are signed and witnessed but they do not go into effect until the signer is no longer able to make health care decisions. For a living will to go into effect:

- the physician determines that someone is in a terminal condition or persistent vegetative state, and that life-sustaining procedures will only prolong death
- if the physician has a copy of the living will, the physician then notifies the family or guardian of the intent to put the living will into effect.

For a durable power of attorney for health care to go into effect:

- the physician determines the patient cannot make health care decisions.
- the agent agrees to start making those decisions.

Advance directives continue in effect until they are revoked by the person who made them, or when that person dies or becomes capable of making health care decisions again.

What if a Health Care Provider is Unwilling to Abide by the Terminally III Act?

Any health care provider who, because of personal belief, is unwilling to abide by the Rights of the Terminally Ill Act is required by law to transfer patient care promptly to another health care provider who will accept the conditions of the advance directive.

Who Should be Consulted Before Preparing an Advance Directive?

Family, close friends and other appropriate people such as clergy may be consulted. Talk with them about what is important in life and personal wishes about health care procedures. Gather information about life-sustaining treatments to make informed decisions about care options. While it is not a legal requirement in Nebraska to consult an attorney in order to complete an advance directive, some may choose to do so.

Where Can Forms for Advance Directives be Found?

The Nebraska Department of Health and Human Services has prepared forms for creating both types of advance directives. Copies of the forms are available free at www.hhs.state.ne.us/ags/advdir.htm.

An excellent resource is *Five Wishes*, available for purchase from Aging with Dignity. *Five Wishes* helps you create a living will that encompasses your personal, emotional and spiritual needs as well as your medical ones. The "five wishes" covered in the publication include:

- who you want to make care decisions for you when you can't;
- the kind of medical treatment you want or don't want;
- · how comfortable you want to be;
- · how you want people to treat you; and
- what you want your loved ones to know.

Written in a straight-forward manner, working through *Five Wishes* completely will result in a Nebraska durable power of attorney for health care and a living will.

Where Should an Advance Directive be Kept?

Keep originals in a safe but accessible place at home. Do not keep them in a safe deposit box. Give copies to the agent or person who will carry out the instructions of the advance directive and the physician, and the local hospital if advance directives for patients can be put on file. Note on the copies where the original is located.

Keep a list of who has copies. Carry a small card in you wallet or purse stating the carrier has an advance directive, contact information for the power of attorney for health care agent, location of the original document(s), and contact information for primary care physician.

Can Someone Change Their Mind about Information Contained in an Advance Directive?

The living will can be revoked at any time and is effective immediately. The durable power of attorney for health care may be revoked orally or in writing but the person must be competent to do so. To revoke either document, destroy the original and ask others with copies to destroy them also.

Review advance directives periodically to be sure wishes are still communicated as desired, and that the documents still comply with state law. To write a new one, simply fill in the appropriate form, date, sign, and have the document witnessed. Give copies of the new document to the agent or other appropriate people.

What Will Happen if There is No Advance Directive?

A 2006 survey by the Nebraska Hospice and Palliative Care Partnership found that while 96 percent of Nebraskans say it is very important to be off machines that extend life, just 38 percent have completed a living will and 36 percent have completed a power of attorney for health care forms.

With no advance directive, there is a greater possibility that someone will receive procedures or treatment they may not have wanted. The main advantages of creating an advance directive are increased confidence that specific wishes about health treatment will be known and honored, and potential family conflict will be avoided.

Summary

Thoughtfully prepared advance directives can ease the burden on those who must make health care decisions at the end of life. If advance directives are not in place, decisions at the end of life may be made by people unknown to the patient, such as hospital risk managers, lawyers, or even the courts. Completing advance directives is one of the greatest gifts to leave to those left behind.

For More Information

Aging with Dignity (2005). *Five Wishes*. Cost: 1 copy, \$5 or 25 or more copies at \$1 each. Available by writing Aging With Dignity, P.O. Box 1661, Tallahassee FL 32302-1661 or online at *www.agingwithdignity.org/5wishes.html*

Caring Connections, National Hospice and Palliative Care Organization, online at *caringinfo.org*. Click on "Planning Ahead" to find these publications:

- Preparing Your Advance Directive
- · Health Care Agents: Choosing One and Being One
- Managing Your Pain
- Artificial Nutrition (Food) and Hydration (Fluids) at the End of Life
- Nebraska Advance Directive: Planning for Important Healthcare Decisions

Community Lesson

EVALUATION

Form for Members/Participants

1.	I am:
	☐ Under 29 ☐ 30-39 ☐ 40-49 ☐ 50-59 ☐ 60-69 ☐ 70 or older
2.	Are you attending this program as a part of a club/group/etc.?
	☐ Yes ☐ No
	If so, please specify what club, group, organization / agency or other:
3.	Please indicate which lesson you completed: (check one)
	□ Bullying □ Fitting in the Fiber □ Housing Options for Today and Tomorrow □ Make Sure It's Done the Way You Want: Advance Directives
1.	How much of the lesson did you complete? (check one)
	☐ All ☐ About half ☐ About one-quarter

5. **Please indicate whether you agree or disagree with the following statements.** Circle a number for each.

	Strongly Disagree	Disagree	Agree	Strongly Agree
This topic is important to me and addresses issues that I need to know more about.	1	2	3	4
I am more knowledgeable about the topic covered.	1	2	3	4
I will use this information in making informed decisions in the future.	1	2	3	4
The information covered in this lesson will impact my life in a positive way. One way is (please list):	1	2	3	4
I will share this information with others who could use this information.	1	2	3	4
Because of this lesson, I will make a change in what I do related to this topic. Changes I plan to make include (please list): As a result of the Advance Directives lesson	1	2	3	4
I know the difference between a living will and a power of attorney for health care.	1	2	3	4
I understand how a living will differs from a last will and testament and/or a living trust.	1	2	3	4
I understand how a durable power of attorney for health care differs from a durable power of attorney for financial affairs.	1	2	3	4
I know where to find forms for doing Nebraska advance directives.	1	2	3	4
I know where to find more information about advance directives.	1	2	3	4
I know where to keep my advance directives.	1	2	3	4
Additional comments (open ended)				

Comments:

Thank you for completing this form and returning it to your extension office or to University of Nebraska–Lincoln Extension, P.O. Box 830703, 211 Agriculture Hall, University of Nebraska–Lincoln, Lincoln NE, 68583-0703