

Are you prepared for a medical emergency?

Who will make decisions for you if you can't?

The day may come when you are not able to make medical decisions for yourself. You might suffer a temporary or even permanent mental disability due to an accident or an illness. This could happen to someone at any age. If you can't make medical decisions on your own behalf, then who will make them for you?

If you are married, the law presumes that your spouse will assume this responsibility. If you are unmarried, the law presumes that such decisions will be made by your "next of kin." But what if you have several close blood relatives and they cannot agree on a course of treatment? Or what if you are estranged from your closest relative? Or what if your relatives live thousands of miles from you? Then what?

You should be responsible and pro-active. After all, it is your life and well being we are discussing.

The law provides ways for you to make certain critical medical decisions in advance. It also allows you to nominate the person you want to make medical decisions on your behalf in the event you can't. You have choices, if you elect to exercise them. You can prepare one or more advance directives to deal with your medical needs, and in some states, you can also designate the person who will have authority to dispose of your remains in the manner of your choosing should you die.

As a service to our members, Unmarried America is passing on information we obtained from Partnership for Caring about advance directives. We suggest that you read these Frequently Asked Questions and the answers provided by Partnership for Caring. Please visit their website where you can obtain specific forms for each state so that you can prepare a living will and a power of attorney for health care.

You can find these forms at:

www.partnershipforcaring.org/Advance/documents_set.html

1. WHAT ARE ADVANCE DIRECTIVES?

"Advance Directives" is a general term that refers to your oral and written instructions about your future medical care, in the event you become unable to speak for yourself. Each state regulates the use of advance directives differently. There are two types of advance directives: a living will and a medical power of attorney.

2. WHAT IS A LIVING WILL?

A living will is a type of advance directive in which you put in writing your wishes about medical treatment should you be unable to communicate at the end of life. Your state law may define when the living will goes into effect, and may limit the treatments to which the living will applies. States name this document differently: for example it might be called a directive to physician, declaration or medical directive. Your right to accept or refuse treatment is protected by constitutional and common law as well as state law.

3. WHAT IS A MEDICAL POWER OF ATTORNEY?

A medical power of attorney is a document that lets you appoint someone you trust to make decisions about your medical care if you cannot make those decisions yourself. This type of advance directive also may be called a health care proxy, appointment of health care agent or a durable power of attorney for health care. The person you appoint through a medical power of attorney normally is authorized to speak for you any time you are unable to make your own medical decisions, not only at the end of life.

4. WHY DO I NEED ADVANCE DIRECTIVES?

Advance directives give you a voice in decisions about your medical care when you are unconscious or too ill to communicate. As long as you can express your own decisions your advance directives will not be used and you can accept or refuse any medical treatment. But if you become seriously ill, you may lose the ability to participate in decisions about your own treatment.



5. WHO SHOULD PREPARE AN ADVANCE DIRECTIVE?

These are not just for the elderly. A serious accident could happen to anyone so every adult over the age of 18 should prepare an advance directive. Several landmark legal cases dealing with the rights of individuals to refuse unwanted medical treatments have involved young people under the age of 30 including those dealing with Karen Ann Quinlan and Nancy Cruzan. The case involving Nancy Cruzan was heard by the United States Supreme Court.

6. DO I NEED BOTH A LIVING WILL AND A MEDICAL POWER OF ATTORNEY?

Yes, you can best protect your treatment wishes by having a living will and appointing a health care agent. Each offers something the other does not. The appointment of an agent ensures a more flexible form of decision making, since the agent can respond to unanticipated changes and base decisions not only on written or verbal expressions of treatment wishes, but also on general knowledge of the patient. None-the-less, the living will can be very useful for several reasons. If the agent becomes unavailable or unwilling to serve, the living will can serve to guide medical decision making. The living will can reassure the agent that he or she is following the wishes of the principal and ease the burden of decision making. If the agent's decisions are challenged, the living will can provide evidence that the agent is acting in good faith. Finally, not everyone has someone to serve as a health care agent.

7. WHERE DO I GET THESE DOCUMENTS?

Your local hospital or long-term care facility may distribute them. Some physicians make them available to their patients. You can also get them for a nominal charge through Partnership for Caring by calling 800.989.9455. Or you can download them at:

www.partnershipforcaring.org/Advance/documents_set.html

8. WHAT DO I DO WITH MY DIRECTIVES AFTER THEY ARE SIGNED?

Make several photocopies of the completed documents. Keep the original in a safe but accessible place (not a safe deposit box). Give the copies to your agent, alternate agent, your doctor and anyone else who might be involved with your health care.

9. WILL MY ADVANCE DIRECTIVES BE HONORED IN ANOTHER STATE?

Many states' laws explicitly honor out of state directives as long as they do not conflict with that state's own law and other state statutes don't address the issue. In fact, a state would probably have to honor an advance directive that clearly expressed your treatment wishes, because your constitutional and common-law rights to accept or refuse treatment may be even broader than your rights under a specific state law. However, if you spend significant time in more than one state, you can complete the advance directives for all of the states involved. It will be easier to have your advance directives honored if they are the ones with which the medical facility is familiar.

10. WILL MY ADVANCE DIRECTIVES BE HONORED IN AN EMERGENCY?

Generally, advance directives such as living wills and medical powers of attorney are not effective in a medical emergency. There may not be time in an emergency either to consult the directions in an advance directive or determine a person's underlying medical condition. However, once the person comes under the care of a physician, the contents of a living will can be evaluated and the instructions of a health care agent determined in light of that person's overall prognosis. The agent you select in your advance directive will have access to your records, will be entitled to visit you, and will have the right to participate in medical decision-making to the same extent you would if you were competent to do so.

11. WHAT HAPPENS IF MY DOCTOR (OR FAMILY) WON'T HONOR MY WISHES?

There is no simple answer to this question. For this reason it is essential that you have honest and open discussions with your agent, family members and physician about their willingness to support and if necessary advocate to see that your wishes are carried out. If you find they are not willing to support your choices, you may wish to consider appointing a non-family member who will honor your wishes or change your physician before a conflict arises.

12. IF I SIGN ADVANCE DIRECTIVES, WILL DOCTORS STILL TAKE CARE OF ME IF I'M SICK?

Yes, a doctor or hospital cannot condition their treatment of you on whether or not you have an advance directive. Even if you decline certain kinds of treatment, you may need care to ensure that you are kept comfortable and free of pain.