

What You Should Know About Healthcare Power of Attorney, Living Will and Organ Donation

What Are My Rights?

Who decides about my medical care or treatment?

If you are eighteen (18) or older and mentally competent, you have the right to make decisions about your medical treatment. You should always talk to your doctor or other health care provider about any treatment or procedure so that you understand what will be done and why. You have the right to say “yes” or “no” to treatments recommended by your doctor. If you want to have more control over decisions about your health care, even if you become unable to make or to express them yourself, you might consider an “advance directive.”

What is an “advance directive”?

An advance directive is a set of directions you give about the health care you want for yourself if you lose the ability to make or express these decisions. Two (2) common types of advanced directives used in North Carolina are the:

- Health Care Power of Attorney; and
- Advance Directive for a Natural Death or “living will”.

You might also consider making a declaration of anatomical gift.

Do I have to have an advance directive?

No. Making a health care power of attorney or a living will is your choice. You will be given the highest quality of care whether or not you have an advance directive. If you become unable to make your own decisions, and you do not have an advance directive, your doctor or health care provider will consult with someone close to you about your care.

Health Care Power Of Attorney

What is a health care power of attorney?

In North Carolina, you can choose a person to make medical care decisions for you in the event you are unable to

make or communicate those decisions yourself. This person is called your “health care agent.” In the legal document, you designate who you want your agent to be. You can also indicate what medical treatments you would want and what you would not want, name a particular physician to determine when you lack the capacity to make or communicate health care decisions, and grant your health care agent the authority to donate organs and parts or your body for anatomical gifts.

How should I choose a health care agent?

You should choose an adult you trust that can make difficult decisions regarding your medical treatment if need be and speak for you. Discuss your values and preferences with this person before you put their name in writing.

Living Will

What is a living will?

In North Carolina, a living will is a document that allows you to authorize or direct the withholding or withdrawal of life-prolonging measures in the following circumstances: (1) you are determined to have an incurable or irreversible condition that (your attending physician believes) will result in your death within a relatively short period of time; (2) you are unconscious and (your attending physician believes) you will never regain consciousness; and (3) you suffer from advanced dementia or another condition which results in the substantial loss of your cognitive ability and (your attending physician believes) this loss is not reversible. In a living will, you can tell your doctor that you want to die a natural death. For example, you can direct your doctor not to begin or to stop giving you artificial nutrition and/or hydration (through a tube).



**APPALACHIAN REGIONAL
HEALTHCARE SYSTEM**

Charles A. Cannon, Jr. Memorial Hospital | Watauga Medical Center | Appalachian Regional Medical Associates

Declaration Of Anatomical Gift: Organ Donation

If you wish to be an organ donor, you should indicate this on your driver's license AND sign and carry a donor card. To ensure families are provided an opportunity to consider organ/tissue/eye donation and to comply with federal regulation, a designated hospital staff member will notify Carolina Donor Services of every death or imminent death in a timely manner. If an appropriate referral is made, Carolina Donor Service will contact family members to discuss the possibility of organ/tissue/eye donations.

Other Questions

How do I make an advance directive?

You must follow several rules when you make a formal health care power of attorney or living will. These rules are to protect you and ensure that your wishes are clear to the doctor or other providers who may be asked to carry them out. These documents must be in writing and signed by you while you are still able to understand your treatment choices and to make and communicate your health care decisions. They must also be signed by two (2) qualified witnesses and notarized.

Are there forms I can use to make an advance directive?

Yes. Health care power of attorney and living will forms are located in the back of this brochure. These forms meet all applicable rules and are the best way to make sure that your wishes are known.

When does an advance directive go into effect?

The powers granted to your health care power of attorney go into effect when your physician (the one designated or, if unavailable or none, your attending physician) states in writing that you are unable to make or communicate your own health care decisions. A living will goes into effect when, as specified: (1) you have an incurable or irreversible condition that (your attending physician believes) will result in death within a relatively short period of time; (2) you are unconscious and (your attending physician believes) you will never regain consciousness; or (3) you suffer from advanced dementia or another condition which results in the substantial loss of your cognitive ability and (your attending physician believes) this loss is not reversible.

Can I change my mind?

Yes. You can cancel your health care power of attorney so long as you are able to make and communicate health care decisions. You can execute or acknowledge an instrument of revocation or a subsequent health care power of attorney or communicate your intent to revoke. This revocation is effective only when you communicate it to each health care agent named in the revoked document and your attending physician. You can cancel your living will at any time, in writing or in any clear and consistent manner, regardless of your physical or mental condition. Informing your physician is sufficient. You should also destroy the original and any copies of the advanced directive that has been canceled.

Whom should I talk to about an advance directive?

You should talk to those closest to you about an advance directive. Discuss your preferences and values, the treatment you wish to receive generally, and the treatment you wish to receive at the end of your life. Your health care provider can answer medical questions and discuss end-of-life options. You may also wish to consult with an attorney if you have more specific questions about the law. Some people also find it helpful to discuss an advance directive with their pastor, priest, rabbi, or other trusted advisors.

Where should I keep my advance directive?

Keep a copy in a safe place where your family members can access it if need be. Give copies to your family, hospital, and your health care agent. You can also register any advance directive on the internet at www.sosnc.gov/ahcdr.

What if I have an advance directive from another state?

An advance directive from another state may not meet all of North Carolina's rules. To be certain, you should consider making an advance directive in North Carolina or having a lawyer review the advance directive from another state.

Where can I get more information?

You get more information by contacting:

Care Management Department
Charles A. Cannon, Jr. Memorial Hospital
(828) 737-7596
Watauga Medical Center
(828) 262-4121

ADVANCE DIRECTIVE FOR A NATURAL DEATH (“LIVING WILL”)

NOTE: YOU SHOULD USE THIS DOCUMENT TO GIVE YOUR HEALTH CARE PROVIDERS INSTRUCTIONS TO WITHHOLD OR WITHDRAW LIFE-PROLONGING MEASURES IN CERTAIN SITUATIONS. THERE IS NO LEGAL REQUIREMENT THAT ANYONE EXECUTE A LIVING WILL.

GENERAL INSTRUCTIONS: *You can use this Advance Directive (“Living Will”) form to give instructions for the future if you want your health care providers to withhold or withdraw life-prolonging measures in certain situations. You should talk to your doctor about what these terms mean. The Living Will states what choices you would have made for yourself if you were able to communicate. Talk to your family members, friends, and others you trust about your choices. Also, it is a good idea to talk with professionals such as your doctors, clergypersons, and lawyers before you complete and sign this Living Will.*

You do not have to use this form to give those instructions, but if you create your own Advance Directive you need to be very careful to ensure that it is consistent with North Carolina law.

This Living Will form is intended to be valid in any jurisdiction in which it is presented, but places outside North Carolina may impose requirements that this form does not meet.

*If you want to use this form, you must complete it, sign it, and have your signature witnessed by two qualified witnesses and proved by a notary public. Follow the instructions about which choices you can initial very carefully. **Do not sign this form until** two witnesses and a notary public are present to which you sign it. You then should consider giving a copy to your primary physician and/or trusted relative, and should consider filing it with the Advanced Health Care Directive Registry maintained by the North Carolina Secretary of State: <https://www.sosnc.gov/ahcdr/>*

MY DESIRE FOR A NATURAL DEATH

I, _____, being of sound mind, desire that, as specified below, my life not be prolonged by life-prolonging measures:

- 1. When My Directives Apply.** My directions about prolonging my life shall apply **IF** my attending physician determines that I lack capacity to make or communicate health care decisions and:

NOTE: YOU MAY INITIAL ANY AND ALL OF THESE CHOICES.

- A. _____ I have an incurable or irreversible condition that will result in my death within a relatively short period of time.
Initial
- B. _____ I become unconscious and my health care providers determine that, to a high degree of medical certainty, I will never regain my consciousness.
Initial
- C. _____ I suffer from advanced dementia or any other condition which results in the substantial loss of my cognitive ability and my health care providers determine that, to a high degree of medical certainty, this loss is not reversible.
Initial

2. **These are My Directives about Prolonging My Life:** In those situations I have initialed in Section 1, I direct that my health care providers:

NOTE: INITIAL ONLY IN ONE PLACE.

- A. _____ may withhold or withdraw life prolonging measures.
Initial
- B. _____ shall withhold or withdraw life-prolonging measures.
Initial

3. **Exceptions “Artificial Nutrition or Hydration”**

NOTE: INITIAL BELOW ONLY IF YOU WANT TO MAKE EXCEPTIONS TO YOUR INSTRUCTIONS IN PARAGRAPH 2, ABOVE.

EVEN THOUGH I do not want my life prolonged in those situations I have initialed in Section 1:

- A. _____ I DO want to receive BOTH artificial hydration AND artificial nutrition (for example, through tubes) in those situations.
Initial

NOTE: DO NOT INITIAL LINE A, ABOVE, OF THIS PARAGRAPH 3 IF EITHER LINE B OR LINE C BELOW IS INITIALED.

- B. _____ I DO want to receive ONLY artificial hydration (for example, through tubes) in those situations.
Initial

NOTE: DO NOT INITIAL LINE B, ABOVE, OF THIS PARAGRAPH 3 IF EITHER LINE A, ABOVE OR LINE C, BELOW ARE INITIALED.

- C. _____ I DO want to receive ONLY artificial nutrition (for example, through tubes) in those situations.
Initial

NOTE: DO NOT INITIAL LINE C, ABOVE, OF THIS PARAGRAPH 3 IF EITHER LINE A OR LINE B, ABOVE ARE INITIALED.

4. **I Wish to be Made as Comfortable as Possible.** I direct that my health care providers take reasonable steps to keep me as clean, comfortable, and free of pain as possible so that my dignity is maintained, even though this care may hasten my death.
5. **I Understand my Advance Directive.** I am aware and understand that this document directs certain life prolonging measures to be withheld or discontinued in accordance with my advance instructions.
6. **If I have an Available Health Care Agent.** If I have appointed a health care agent by executing a health care power of attorney or similar instrument, and that health care agent is acting and available and gives instructions that differ from this Advance Directive, then I direct that:
- A. _____ Follow Advance Directive: This Advance Directive will override instructions my health care agent gives about prolonging my life.
Initial
- B. _____ Follow Health Care Agent: My health care agent has authority to override this Advance Directive.
Initial

NOTE: YOU MAY INITIAL EITHER LINE A OR LINE B, ABOVE, BUT DO NOT INITIAL BOTH LINES. IF YOU DO NOT INITIAL EITHER LINE, THEN YOUR HEALTH CARE PROVIDERS WILL FOLLOW THIS ADVANCE DIRECTIVE AS IF LINE A, ABOVE, IS INITIALED AND WILL IGNORE THE INSTRUCTIONS OF YOUR HEALTH CARE AGENT ABOUT PROLONGING YOUR LIFE.

- 7. **My Health Care Providers May Rely on this Directive.** My health care providers shall not be liable to me or to my family, my estate, my heirs, or my personal representative for following the instructions I give in this instrument. Following my directions shall not be considered suicide, or the cause of my death, or malpractice or unprofessional conduct. If I have revoked this instrument but my health care providers do not know that I have done so, and they follow the instructions in this instrument in good faith, they shall be entitled to the same protections to which they would have been entitled if the instrument had not been revoked.

- 8. **I Want this Directive to be Effective Anywhere.** I intend that this Advance Directive be followed by any health care provider in any place.

- 9. **I have the Right to Revoke this Advance Directive.** I understand that at any time I may revoke this Advance Directive in a writing I sign or by communicating in any clear and consistent manner my intent to revoke it to my attending physician. I understand that if I revoke this instrument I should try to destroy all copies of it.

This the ____ day of _____, 20____.

Signature of Declarant: _____

Type/Print Name of Declarant: _____

I hereby state that the declarant, _____, being of sound mind, signed (or directed another to sign on declarant's behalf) the foregoing Advance Directive for a Natural Death in my presence, and that I am not related to the declarant by blood or marriage, and I would not be entitled to any portion of the estate of the declarant under any existing Will or Codicil of the declarant or as an heir under the Intestate Succession Act, if the declarant died on this date without a Will. I also state that I am not the declarant's attending physician, nor a licensed health care provider who is (1) an employee of the declarant's attending physician, (2) nor an employee of the health facility in which the declarant is a patient, nor (3) an employee of a nursing home or any adult care home where the declarant resides. I further state that I do not have any claim against the declarant or the estate of the declarant.

Date: _____

Witness: _____

Date: _____

Witness: _____

STATE OF NORTH CAROLINA
COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this ____ day of _____, 20____, by _____, and _____ and _____ as witnesses.

Notary Public

My commission expires: _____