

Making Medical Decisions in Advance

*Living Wills and Durable Powers
of Attorney for Medical Decisions*

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Many people would not want doctors to continue treatment to keep them alive if they were terminally ill or in a coma from which they would never wake up. Other people would want to be kept alive. This booklet discusses ways to make your wishes known to your doctors.

In most situations patients have the right, under law, to decide what medical care they should receive. These decisions include choices about life support systems such as breathing machines (ventilators), kidney machines (dialysis), and other lifesaving treatments. Ideally, these decisions are made by the patient and doctor together.

Patients cannot always tell their doctors what they want.

A serious illness or injury may keep a person from being able to make choices. Then doctors try to decide, with help from patients' loved ones, what the patient would want or what is best for the patient.

Sometimes it is hard to know a patient's wishes. For example, does your family know if you want to be on a breathing machine if you are in a coma and will never wake up? You can make sure your doctors and others know your wishes by completing a living will and choosing an agent — someone to make decisions for you when you can not. Living wills and the choice of an agent are called "advance directives." UPMC is committed to respecting your wishes.

Advance directives take effect in hospitals and health care institutions like nursing homes. There are other orders that your doctor can write to direct EMS (emergency medical services) providers not to revive (resuscitate) you in your home or other locations outside of hospitals. This is called an "out-of-hospital DNR" (do not resuscitate). If you are interested in this option, talk with your doctor.

Decisions about your care

It is unpleasant to think about being seriously ill or injured. However, it may be helpful to think about such situations before they occur. This way you can make your wants and beliefs known. You should talk to your family and your doctor about your beliefs and the type of care that you do or do not want. What do you want your doctor to do if you are in a coma? Do you want to go on living if you become terminally ill and must be fed through a tube? These are very difficult questions to answer. Your doctor should be available to help you think about them.

There are several things that you can do to make your doctors aware of your wishes about using life-sustaining treatment.

- You can appoint an agent (someone to make decisions for you).
- You can prepare a living will.
- You can appoint an agent **and** prepare a living will, or name an agent within your living will

What if I have no advance directive?

If you do not appoint an agent and do not have a living will, Pennsylvania law decides who can make medical decisions for you if you are not able to make these decisions yourself. Under the law, this order would be followed to determine the “health care representative” to make these decisions for you:

1. spouse and adult children
2. adult children
3. parents
4. adult siblings
5. adult grandchild
6. another adult who knows you well

If you prefer to choose the person who will talk with your doctors and make these decisions, you must appoint an agent. Choosing an agent may also help avoid problems that arise when people at the same rank under this law do not agree with each other. For instance, there may be three brothers with three different ideas about what is best for their widowed father.

Health care representatives as designated by state law are limited in the decisions they can legally make for you. An agent whom you choose can consent to, or refuse, any treatment under whatever conditions you decide.

Choosing an agent is the most important thing you can do.

You can choose whomever you want to serve as your agent – such as your spouse, a parent,

a son or daughter, or a friend. This person will make decisions for you if you cannot make them yourself. To ensure that you receive only the treatments that you want, you need to talk with the agent about the care that you would want. You can make your choice of an agent legally effective by signing a durable power of attorney form (see Pages 10 through 13).

Living wills

Another step you can take is to prepare a living will. A living will is a way to state your wishes about medical treatment for life-threatening illnesses. When you cannot express your wishes, the living will guides your doctor and your family in deciding what is best for you.

The living will should state your wishes as clearly as possible.

A living will may be very general. Or it may state specific examples of treatments you do or do not want. For example, some people might not want to have feeding tubes or other artificial forms of food or water if they become terminally ill. Others might refuse attempts to restart their hearts using CPR (cardiopulmonary resuscitation) under such circumstances. A living will can say how you wish to be treated under conditions like these. Also, you can name your agent in a living will.

There is a living will form on Pages 8 to 9 of this booklet. You may use this form, use a different living will form, or write your own. To complete a living will:

1. Type or write the living will.
2. Sign and date the living will.

3. Have 2 adults witness your signature and sign the living will. The witnesses should be people other than the person you have named to be your agent. You do not need to have the living will notarized, and a lawyer does not need to be involved.
4. Have your doctor and your family read your living will. Be sure they understand what it means.
5. Give a copy to your doctor to keep in your medical file. You may also give a copy to your lawyer.
6. Keep another copy in a safe place. **Do not** keep it in a place where it is hard for others to get to, like a safe or safe deposit box.
7. If you are admitted to a hospital, be sure to tell your attending doctor about your living will.

Although living wills are helpful, they cannot cover all situations. That is why it is especially important to choose an agent and talk to this person about your views. Your agent can then help your doctor decide what is best for you if you become unable to express your wishes. Be sure your agent has a copy of your living will.

Questions to think about

Before you talk to your agent or doctor, it may be helpful to think about these questions:

- What activities are most important to you?
- What would your life be like if you could no longer enjoy these activities?
- What would be important to you if you were dying:
 - to be able to talk to your family members?

- to preserve your independence for as long as possible?
- to be free of medical machines?
- to stay alive as long as possible?
- Would you want life support systems to be used if:
 - you had a severe illness and would die without that help but had a reasonable chance to recover and lead a normal life with that help?
 - you had a severe illness and would die without that help, but you would not recover to lead a normal life?
 - you were in a coma and would never wake up?
 - you had a terminal illness and would probably die in the next 3 months regardless of whether you received life-sustaining treatment?
- If you cannot speak for yourself, who could best express your wishes to your doctor or not?

Your answers to these questions may help you decide what you want your doctor to do if you become critically ill.

Some common questions about living wills

What Happens If I Change My Mind About My Living Will?

You may change your mind at any time. Simply follow these steps:

1. Tell your doctor to destroy your living will.
2. Destroy your copy of your living will.

3. Tell your agent and anyone else to be involved in your decision-making that you have changed your mind.
4. Prepare a new living will and give copies to your doctor and your agent.

What Happens If I Change My Mind About My Agent, Or If My Agent Dies Or Moves Away?

Again, you may make a change at any time. Simply follow these steps:

1. Tell your agent that you have changed your mind.
2. Destroy your copy of the Durable Power of Attorney for Health Care form and tell your doctor to destroy the copy in your file.
3. Prepare a new Durable Power of Attorney for Health Care form to choose a new agent. Give copies to your doctor and your agent.

What About Pain And Suffering?

You will always receive medical and nursing care to help make you more comfortable. This is true whether or not you have made a living will.

What Are My Rights Under State Law?

Pennsylvania has laws pertaining to living wills, the Living Will Act. This law allows you to state your wishes about medical treatment. Pennsylvania also has a Power of Attorney law, which allows you to name an agent.

The living will law says that any competent person can make a living will if he or she is 18 years old or older, is a high school graduate, or is an “emancipated minor” — for instance, if he or she is married.

Under this law, the living will takes effect upon the conditions you specify, but generally, when

- (1) your doctor has a copy of it,
- (2) your doctor concludes that you are “incompetent” or that you are no longer able to make or express decisions about medical care you want, and
- (3) your doctor concludes that you are in an end-stage medical condition (the final stages of a disease or injury from which a patient cannot recover) or permanently unconscious (a total loss of consciousness that cannot be reversed).

Special pregnancy situations

State law directs doctors to disregard a living will in certain cases in which a pregnant woman does not want to be kept alive. State law does not permit a doctor to follow a pregnant woman’s wishes unless life-sustaining treatment:

- will not allow for continued development and live birth of the unborn child, or
- will physically harm the pregnant woman, or
- will cause pain that cannot be relieved with medication.

What Is UPMC's Policy Toward Living Wills?

UPMC respects each patient's decision to accept or refuse medical treatment, including life support. UPMC policy is to comply with such decisions and to honor a patient's advance directive. Before the advance directive will be followed, however, the patient's doctor must write an order in the medical record about what treatment to provide or not provide. Therefore, it is important to discuss your advance directive with your doctor.

Can Doctors Refuse?

Pennsylvania law allows doctors to refuse to follow an advance directive for his or her personal, religious, or moral reasons. In such a case, your doctor must tell you or your agent and must try to transfer your care to another doctor who is willing to follow your directions.

Also, in rare situations, a doctor may have concerns about a living will (for example, if it is not clear whether the legal requirements have been met). In such cases, your doctor will discuss those concerns with you or your agent. In difficult cases, a hospital ethics committee may be involved.

If you would like further information to assist you in your decision about limiting medical treatment, please ask your doctor or social worker for additional guidelines.

May I Have Both A Living Will And A Durable Power Of Attorney For Medical Decisions?

Yes.

Do I Have To Have A Living Will?

No. Doctors, hospitals, and insurance companies cannot force you to have or sign a living will.

Can I Use The Advance Directive For Organ Donation?

You may include your wishes about organ donation in your advance directive, or you may sign an organ donor card. You should discuss your wishes regarding organ or tissue donation with your family or doctor.

If you have questions about organ and tissue donation or would like to sign an organ donor card, you can ask your nurse for more information, or contact the Center for Organ Recovery and Education (CORE), toll-free, at 1-800-DONORS7 (1-800-366-6777).

Forms

Examples of forms for durable power of attorney and a living will are on Pages 6 through 13. A *Living Will and Health Care Power of Attorney* form developed by the Allegheny County's Medical Society and Bar Association also is available. Visit www.acms.org and select Patient Resources, then select Free Living Will. Or visit <http://www.agingwithdignity.org/5wishes.html>.

Or you may write your own form.

If you fill out any of these forms, discuss them with your doctor or nurse. If you do not understand any part of these forms, you should ask your doctor or nurse to explain it to you.

About the living will form

This form is provided for your convenience. Please read it carefully. It may or may not meet your needs. Other forms are available. You may want to obtain advice from a lawyer before signing a living will. This form covers only decisions about health care and does not give your agent the right to make decisions about your property or business affairs.

Be sure your instructions and comments are legible.

**Choice of agent/
substitute decision maker**

Select only a person you trust to understand and carry out your wishes.

Effective date

This document is effective if and when you become unable to make health care decisions, as determined by your doctor. Until that time, you retain the right to make decisions about your care.

Revocation

You may cancel or revoke your agent's authority at any time. To revoke, notify your agent and health care provider, preferably in writing. It is best to destroy the document if you revoke.

Signing the form

You should sign and date the living will form in the presence of two adult witnesses. The agent and substitute should not sign as witnesses to your signature.

What to do with this form

- Keep the signed original form with your personal papers at home.
- Discuss your wishes with your doctor, family, and agent.
- Give them signed copies of the form.

If your wishes change, do not try to alter the form. Instead, it is best to cancel (see "Revocation" section above) and prepare a new document that clearly states those wishes. You should discuss those changes with your doctor, agent, and family.

Living will

This document will serve to let my physician know about my desire NOT to have life-sustaining measures to artificially prolong my life under the circumstances discussed below.

This directive was made and executed by

(name) _____, of

(street address) _____,

(county) _____

(state) _____ (ZIP) _____ on _____

(date) _____

I, _____, being of sound mind, do willfully and voluntarily make known my desire NOT to have my life artificially prolonged under the circumstances set forth below, and do hereby declare:

1. If at any time I should have a terminal or irreversible condition caused by injury, disease, or illness, I would NOT want treatments that would serve only to artificially prolong the moment of my death. I request that I be permitted to die naturally. Specific treatments that I do not want are listed below.

2. By completing this document, I am hoping to avoid a quality of life where I would be UNABLE to do the following things I enjoy:

3. If I were to suffer from Alzheimer's disease, dementia, or some other disease that would affect the use of my brain, I want my physicians to know that (CHECK ONE)

_____ I do not want to have a feeding tube inserted if I cannot eat by mouth.

_____ I do want to have a feeding tube inserted if I cannot eat by mouth.

4. In the absence of my ability to give directions I select

(name) _____, of

(address) _____,

(telephone number) _____

to serve as my health care agent. If this person is not available at a time when a decision should be made, I select

(name) _____, of

(address) _____,

(telephone number) _____

to serve as my alternative health care agent. It is my intention that this directive shall be honored by my health care agent, family, and physicians as the final expression of my legal right to refuse medical or surgical treatment and to accept the consequences of such refusal.

5. ORGAN DONATION (Initial one option only).

_____ I consent to donate my organs and tissues at the time of my death for the purpose of transplant, medical study, or education. (List below any limitations you desire on donation of specific organs or tissues or uses for donation of organs and tissues).

OR

_____ I do not consent to donate my organs or tissues at the time of my death.

6. I understand the full import of this directive, and I am emotionally and mentally competent to make this directive.

7. I understand that I may revoke this directive at any time.

Signature _____ Date _____

Witness _____

Address _____

Witness _____

Address _____

Note: Certain people may not legally witness this document. These include health care providers treating the individual and any person who signs this document on behalf of the individual.

Durable Power of Attorney Instructions

This form is provided for your convenience. Please read it carefully. It may or may not meet your needs or conform to the requirements of your particular state (or country). Even if the form does not meet the legal requirements of your state, it may still provide evidence of your wishes if you become unable to speak for yourself or make decisions about your property or business affairs.

Choice of agent

Select only a person you trust to understand and carry out your wishes.

Effective date

This document is effective if and when you become unable to make health care decisions, as determined by your doctor. Until that time, you retain the right to make decisions about your care.

Revocation

You may cancel or revoke your agent's authority at any time. To revoke, notify your agent and health care provider, preferably in writing. It is best to destroy the document if you revoke.

Changing the form to meet your needs

Make any necessary changes to the form before you sign it. Add any instructions or comments to the form that you feel are necessary in order to express your wishes. If you have no instructions or comments, write in "NONE." Try to avoid leaving any section blank.

Cross out any part that does not meet your needs by placing a single line through the part to be deleted. Then initial and date the part you deleted. Do not use heavy markers or correction fluid (such as Liquid Paper or Wite-Out) to delete the item.

Be sure your instructions and comments are legible.

Signing the form

Procedures for signing the form vary from state to state. Although Pennsylvania does not require notarization, Durable Power of Attorney forms should be notarized where possible to ensure validity and applicability in other states. You should sign and date Durable Power of Attorney forms in the notary's presence. The person you have chosen for your agent should also sign the document to acknowledge his or her responsibility as an agent.

What to do with this form

- Keep the signed original form with your personal papers at home.
- Discuss your wishes with your doctor, family, and agent.
- Give them signed copies of the form.

If your wishes change, do not try to alter the form. Instead, it is best to cancel (see "Revocation" above) and prepare a new document that clearly states those wishes. You should discuss those changes with your doctor, agent, and family.

Durable Power of Attorney for Health Care

I, _____ (the "principal"),

appoint: _____

Name

Address

Phone numbers

as my attorney-in-fact or "agent" to make health and personal care decisions for me if I become incapable of making my own decisions. If the person named above is unable to serve as my agent for any reason, I appoint an alternate to serve as my agent:

Name

Address

Phone numbers

This Durable Power of Attorney for Health Care shall become effective upon my incapacity. I grant the following powers to my agent:

1. To authorize my admission to or discharge from any medical, nursing, residential, or similar facility and to enter into agreements for my care.
2. To authorize, refuse, or withdraw consent to any and all types of medical and surgical procedures, care, or treatment, including, but not limited to, nutrition and hydration administered by artificial or invasive means.

I have discussed my wishes concerning health care with my agent, who shall follow my directions to the extent known. If my agent is unable to determine what I would want, then my agent shall make a decision based upon what he or she believes to be in my best interests. I revoke any prior power of attorney for health care.

Please see reverse side

My signature below means that I understand this document and intend this grant of powers to my agent to be legally binding.

| | | | |
|--------------------|---------------|------------------|---------------|
| _____ | _____ | _____ | _____ |
| <i>(Signature)</i> | <i>(Date)</i> | <i>(Witness)</i> | <i>(Date)</i> |
| | | _____ | _____ |
| | | <i>(Witness)</i> | <i>(Date)</i> |

I, _____, have read the above durable power of attorney for health care and am the person identified as the agent for _____ (the “principal”). My signature below means that I understand and acknowledge that when I act as agent:

I shall exercise the powers for the benefit of the principal.

I shall exercise reasonable caution and prudence and act in the best interest of the principal.

(Signature) *(Date)*

UPMC

200 Lothrop Street
Pittsburgh, PA 15213-2582

For help in finding a doctor or health service that suits your needs, call 412-647-UPMC (8762) or, toll-free, 800-533-UPMC (8762).

For UPMC Mercy patients: UPMC Mercy, a Catholic hospital, abides by the Ethical and Religious Directives for Catholic Health Care Services, as determined by the United States Conference of Catholic Bishops. As such, UPMC Mercy neither endorses nor provides medical practices or procedures that contradict the moral teachings of the Roman Catholic Church.

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This information is not intended to be used as a substitute for professional medical advice, diagnosis, or treatment. You should not rely entirely on this information for your health care needs. Ask your own doctor or health care provider any specific medical questions that you have.