

Advance Directives in Pennsylvania

In Pennsylvania, capacitated adults have the right to decide whether to accept, reject or discontinue medical care and treatment. There may be times, however, when a person cannot make his or her wishes known to a medical provider. For example, a person may be incompetent, in a terminal condition or in a state of permanent unconsciousness, and unable to tell his or her doctor what kind of care or treatment he or she would like to receive or not to receive. This can be addressed through an advance directive.

What is an advance directive?

An advance directive is a written document that you may use, under certain circumstances, to tell others what care you would like to receive or not receive should you become unable to express your wishes at some time in the future. An advance directive may take many forms, and is commonly referred to as a “living will.” In Pennsylvania, a living will is known in the law as an advance directive for health care.

What is a living will?

In Pennsylvania, a living will is an advance directive for health care and is a written “declaration” that describes the kind of life-sustaining treatment you want or do not want if you are later unable to tell your doctor.

When does my living will take effect?

The living will, or advance directive for health care declaration, becomes operative when:

- Your doctor has a copy of it.
- Your doctor has concluded that you are incompetent and you are in a terminal condition or in a state of permanent unconsciousness.

Who can make a living will?

Any competent person who is at least 18 years old, or is a high school graduate, or is married can make a living will.

What does it mean to be “incompetent”?

Incompetence is the lack of sufficient capacity for a person to make or communicate decisions concerning himself or herself. The law allows your doctor to decide if you are incompetent, or in a terminal condition or permanently unconscious for purposes of a living will.

How should my living will be written?

There is no single correct way to write a living will or declaration. However, your living will is not valid unless you sign your living will. If you are unable to do so, you must have someone else sign it for you, and two people who are at least 18 years old must sign your living will as witnesses. Neither of those witnesses may be the person who signed your living will on your behalf if you were unable to sign it yourself. It is suggested that you also date your living will, even though the law does not require it. In Pennsylvania,

you are not required to have your living will notarized; however, if you are contemplating using the document in another state, you should find out if the other state requires notarization.

What if my doctor or health care provider refuses to follow the directions in my living will?

Your doctor and any other health care provider must inform you if they cannot in good conscience follow your wishes or if the policies of the health care provider prevent them from honoring your wishes. This is one reason why you should give a copy of your living will to your doctor or to those in charge of your medical care and treatment. The doctor or other health care provider who cannot honor your wishes must then help transfer you to another health care provider willing to carry out your directions — if they are the kind of directions which Pennsylvania recognizes as valid.

How is an advance directive for health care terminated?

Pennsylvania's living will law states that you may revoke a living will at any time, and in any manner. All that you must do is tell your doctor or other health care provider that you are revoking it. Someone who saw or heard you revoke your declaration may also tell your doctor or other health care provider.

CONTACT: For assistance in obtaining an attorney if you do not have a family attorney, or for further information, contact your local Area Agency on Aging, the Pennsylvania Bar Association, Legal Counsel for the Elderly at 202-434-2120.

For a copy of the booklet *Understanding Advance Directives; Living Wills and Powers of Attorney in Pennsylvania* write:

PA Department of Aging

Press Office

555 Walnut St., 5th Floor

Harrisburg, PA 17101-1919

717-783-1549

Declaration

I, _____, being of sound mind, willfully and voluntarily make this declaration to be followed if I become incompetent. This declaration reflects my firm and settled commitment to refuse life-sustaining treatment under the circumstances indicated below.

I direct my attending physician to withhold or withdraw life-sustaining treatment that serves only to prolong the process of my dying, if I should be in a terminal condition or in a state of permanent unconsciousness.

I direct that treatment be limited to measures to keep me comfortable and to relieve pain, including any pain that might occur by withholding or withdrawing life-sustaining treatment. In addition, if I am in the condition described above, I feel especially strongly about the following forms of treatment:

- I () do () do not want cardiac resuscitation.
- I () do () do not want mechanical respiration.
- I () do () do not want tube feeding or any other artificial or invasive form of nutrition (food) or hydration (water).
- I () do () do not want blood or blood products.
- I () do () do not want any form of surgery or invasive diagnostic tests.
- I () do () do not want kidney dialysis.
- I () do () do not want antibiotics.

I realize that if I do not specifically indicate my preference regarding any of the forms of treatment listed above, I may receive that form of treatment.

Other instructions:

I () do () do want to designate another person as my surrogate to make medical treatment decisions for me if I should be incompetent and in a terminal condition or in a state of permanent unconsciousness.

Name and address of surrogate (if applicable):

Name and address of substitute surrogate (if surrogate designated above is unable to serve):

I made this declaration on _____, 20_____.

Declarant's signature: _____ Declarant's address: _____

The declarant knowingly and voluntarily signed this writing by signature or mark in my presence.

Signature of Witness

Address of Witness

Signature of Witness

Address of Witness