

# Planning Strategies

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## Advance Health Care Directives: Living Wills and Health Care Proxies

This is the second full installment in our [Estate Planning Series](#). Our first installment covered [Durable Power of Attorney](#). In this piece, we'll cover advance health care directives.

### What Are Advance Directives?



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Advance Health Care Directives are legal documents that describe the extent of medical treatment you want to receive should you become unconscious or too ill to communicate. The name "Advance Directives" refers to the fact that you are setting out instructions in advance of a time when you might need someone to carry out your wishes as to important health care decisions. Although the topic may be difficult to discuss, it is important to record your preferences. We recommend that you discuss Advance Directives with your spouse, other family members, physicians, nurses, clerics, and your attorney.

### Advance Directives Include:

- A **health care proxy**, which gives an agent of your choice the authority to make all health care decisions for you if you are unable to do so. This includes the decision to remove or provide life-sustaining treatment, unless you specify otherwise.
- A **living will**, which reflects specific medical procedures you would like – or would not like – to be performed if or when you become terminally ill.

- **Anatomical gift** – You can use the health care proxy form to specify that your organs and/or tissues be used for transplantation, research, or educational purposes. A failure to include your wishes on this form will not be taken to mean that you do not want to be an organ and/or tissue donor.

With the increasing ability of medical science to sustain our lives, people are living longer than ever before. Unfortunately, as we age, or if we experience health challenges, we may find ourselves in a position where we need to delegate our health care decisions. This is especially true at the end of our lives, but can be true at any time because of an accident, injury, or illness. If we cannot express our preferences about treatment, others will make decisions for us.

### The Power of Advance Directives



[Image Source: Shutterstock]

Advance health care directives allow us greater control over unexpected and challenging personal health situations. Without such directives, our

families may find it necessary to obtain court orders to deal with our medical situations. Further, without an Advance Directive there could be family strife or disagreement over which decision is the right one.

All 50 states permit you to express your wishes as to medical treatment in terminal illness or injury situations and to appoint someone to communicate for you in the event you cannot communicate for yourself. Some states have a standardized or statutory form, while other states allow you to draft your own document. If you use a standard or statutory form, you should review it to be sure it comports with your wishes.

Physicians prefer Advance Directives because they clearly dictate your medical care and designate whom they should consult concerning unanswered questions. Rather than the physician having to obtain a consensus answer from your family, s/he knows your specific treatment preferences.

In addition to helping your physician, Advance Directives express your wishes to your family so that they do not have to guess about what you would want. Making your wishes known in advance prevents family members from making hard choices at what likely will be one of the most stressful times in their lives.

Should you change your mind about your health care treatment or end-of-life decisions or your choice of health care proxy, you can simply destroy the documents and create new ones. Once you have an Advance Directive, you should keep it among your important papers. Make sure a responsible adult, such as the named health care proxy, knows where you keep these documents. If you have a regular physician who keeps your medical records, you should provide a copy of the document to him or her, as well. In the event you are admitted to a hospital, you should take this document with you and permit the hospital to place a copy of it into your medical file. It is also a good idea to discuss the decisions you have made in your document with family members so that they may better know and understand your wishes concerning these matters.

### **Next Steps: Set Up Your Advance Directives**

Your attorney can prepare an Advance Directive for you and can advise on your local state requirements. It is the policy of some hospitals and other medical institutions not to permit their employees to witness the signing of such documents.



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