

Advance Health Care Directives

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What is an advance health care directive?

An advance health care directive is a legal document which lists your instructions for medical care, including mental and physical health care as well as end of life decisions. You can write a directive when you are well and use it later when you are not able to make decisions about your health care.

What is included in an advance health care directive?

A directive may include instructions about which providers, medications, and care facilities you do or do not want. You can include symptoms or behaviors that show when you need help and when the directive should be activated. You can also include instructions about who can or cannot see your medical records. A health care directive may also include instructions about care of family members, your housing and bills, and your pets while you are receiving treatment.

Should I have an agent?

You can use a directive to name an “agent” to act on your behalf when you are not able to make health care decisions. Your agent must be at least 18 years or older and cannot be your provider or case manager. Check with the person before you name them as agent to make sure they are willing to do it. You do not need to choose an agent, but doing so can help you. Your agent can work with your care providers at a time when you might not be able to. Having an agent can also help you have a more flexible directive in case of new options or situations.

What makes a directive legal?

You must sign and date your directive in front of two witnesses, age 18 or older. Your witnesses must also sign and date the document. As an alternative, you can sign the document in front of a notary. Your agent cannot be a witness, but your case manager or one other provider can be. Read the entire form carefully before you write the directive. You should use your own words. You do not need a lawyer to write your directive and make it legal.

Who should have access to my directive?

You should give a copy of your directive to your spouse/partner, family, agent, care providers, case manager, and hospital. You can carry a copy in your wallet or purse, put it on your phone, or post a copy in your home (such as on your refrigerator).

What happens if I need to change my directive?

A directive may be called off or changed at any time as long as you have the mental capacity to do so. The directive with the most recent date is the one that will be followed. You can call off a directive simply by saying, in front of two others, that it is void. A directive does not need to be called off in writing, although this is best. You should keep your directive updated. Update your directive when you have any life changes, such as moving, new doctor or medications, or a change in your health.

What happens if I do not consent to the treatment described in my directive?

If your capacity is impaired and the directive clearly consents to a specific treatment, your agent should consent on your behalf. A care provider may give you that treatment based on your directive’s instructions, or they may seek a court order to give you the treatment. The instructions in a directive are activated if you do not

have the capacity to make informed decisions, which may be determined by a doctor or a judge. Providers have to make all reasonable efforts to follow your directive.

Where can I find more information?

Contact the Minnesota Disability Law Center for more information, including common questions and answers, how-to instructions, and templates at www.lawhelpmn.org. The National Resource Center on Psychiatric Advance Directives also has more information at www.nrc-pad.org/states/Minnesota-resources.

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