

**Communicating Your Healthcare
Decisions**

**Your
Right To Decide**



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In 1990, Congress passed the Patient Self-Determination Act. It requires healthcare institutions to tell patients and the people in their communities about their rights under Virginia law to make decisions about their medical care. These rights include the right to accept or refuse care and the right to make advance directives about their care.

This booklet answers the questions that are most frequently asked about advance directives. It is not intended as legal advice.

If you have questions about advance directives that this booklet does not answer, please call an Inova hospital and ask for the phone number of the case management department for a social worker or for the patient representative department for further consultation and other sources of information.

You do not need a lawyer to prepare an advance directives document but if you wish to speak to a lawyer you may contact your local bar association for a referral. You can locate your county bar association on the internet or in your phone number directory.

An advance directive is a document of stated preferences for healthcare. The document serves as a guide for doctors, healthcare providers, guardians, Durable Power of Attorneys for Healthcare Decisions (DPOA), family members, and concerned others in making healthcare decisions for incapacitated adults. The document consists of five parts: an appointment of a Durable Power of Attorney for Healthcare Decisions, the powers that you grant your DPOA, health care instructions, end of life care instructions, and a directive for donation of your organs, tissues, or body after your death. More information on each of these types of directives will be provided later in this brochure.

Please discuss the contents of your advance directives with your family and doctors. You may want to talk about in the discussion what values should be considered and honored when making decisions about your healthcare if you are ever in an advanced or terminal stage of illness that leaves you unable to communicate your own decisions. These values are what you consider to be the most important aspects of your definition of “quality of life”. You will want them to consider how the decisions they make about your medical care will affect your overall quality of life. After discussing your advance directives with your family and doctors, provide copies of your advance directives form(s) to all your doctors for them to include in your medical record in their office. Your doctor does have a choice regarding following your Advance Directives if he or she has a moral or clinical objection to your preferences for care. If your doctor feels he/she cannot honor your decisions for medical care, he or she will work with you to transfer your care to another doctor who will follow your wishes.

How do I exercise my healthcare rights?

Under Virginia law, “[e]very human being of adult years and sound mind has a right to determine what shall be done with his own body.” Doctors help their patients to exercise this right by giving them information about the medical treatment they are recommending

and describing care options. When patients agree to the recommended treatment, they have given their informed consent. Patients also have the right to refuse the recommended treatment.

What types of decisions are included in an advance directive?

The Virginia Healthcare Decisions Act allows you to make decisions about your care in three ways:

1. You can describe what treatments you want for a physical or mental health problem if you are not able to participate in decision making and what treatments you want if you are terminally ill and cannot make decisions about your care.
2. You can designate a durable Power of Attorney for Healthcare Decisions (DPOA) who is someone legally authorized to make decisions for you when you cannot make them yourself — regardless of your condition or illness. You do not have to be terminally ill for a DPOA to follow these directives. You can select a range of powers for your DPOA regarding the decisions to be made for you.
3. You can make decisions about what to do with your organs, tissue and body after your death.

These parts of the advance directive form are described in questions that follow.

What are Health Care Instructions?

Health care instructions detail what treatments you want or do not want if you are unable to participate in decision making for yourself due to physical or mental state. The form provides space for you to enter your specific wishes. It is also important to discuss these instructions with your DPOA and your doctor to be sure they understand what you want. You are not required to complete this section to make the document valid.

What are End of Life Instructions?

End of Life instructions detail how to care for you if you ever have a terminal condition and you are unable to make decisions for yourself. The document states you do not wish to have Cardiopulmonary Resuscitation (CPR), be placed on a breathing machine, or receive artificial hydration or nutrition. You may add other treatments such as kidney dialysis. It is important to review your options with your physician in preparing these instructions. A terminal condition is an incurable condition in which death is expected within six months if the disease runs its usual course. “Terminal” can also mean a persistent vegetative state, which some people call a permanent coma, even when death is not imminent. In either case, a doctor has determined that there is no medically reasonable expectation for recovery. .

Signing this type of advance directive permits you to decide in advance whether you want physicians to give you what the law calls “life-prolonging procedures.” Remember the end of life instructions only apply if you are unable to participate in making decisions. Otherwise your doctor will discuss these decisions directly with you.

What are “life-prolonging procedures?”

These are treatments that are not expected to cure a terminal condition or to make you better. They only prolong the dying process. The treatments may include hydration (giving water) and nutrition (giving food) by tube, connection to machines that breathe for you and other kinds of medical and surgical treatment such as kidney dialysis. Life-prolonging procedures *do not* include treatments needed to make you comfortable or to ease pain. Your doctor will always give you treatment or medications to ease pain and make you comfortable unless you say in your advance directive that you do not want them. You can also say in this type of advance directive that you want to have particular life-prolonging procedures given to you. For example, if you want to have all life-prolonging procedures performed except tube feeding withdrawn, you may say that in your advance directive.

You or your DPOA may be asked to make a series of decisions as your care plan progresses. This underscores the importance of discussing your treatment and care preference with your DPOA who is obligated to follow your directions. Your doctor will review your options with you or your designee as your condition progresses. This may include decisions to stop a “life-prolonging” procedure or treatment. As with all medical treatment decisions, by law, you may refuse to continue these treatments at any point during your care.

If I die because I refused life-prolonging treatment under the Healthcare Decisions Act, will my death be considered suicide?

No. The Healthcare Decisions Act specifically says that, if it is followed and the patient dies, the death is not suicide. Following the Act will not void a life insurance policy even if the policy says otherwise

What is a Durable Power of Attorney for Healthcare Decisions?

A Durable Power of Attorney for Healthcare Decisions (DPOA) is another part in an advance directive form. The DPOA is a person you designate to make healthcare decisions for you when you cannot participate in making decisions for yourself due to physical or mental illness. The Advance Directive form (included in this booklet) lists the powers of the DPOA. You may cross out any of the listed powers you do not want to give your DPOA. The person named in this type of advance directive can make all healthcare decisions for you that you would have made for yourself if you were able, whether or not you are terminally ill. Virginia law says that the person you choose cannot make decisions that he or she knows go against your religious beliefs, basic values and stated preferences.

How do I make known my decisions about donating my organs, tissues, or body after my death?

The fifth type of directive allows you to name a person who will see that your directive that your organs, tissues, or body to be donated after your death is fulfilled. If you have questions about these kinds of donations, you may contact the Washington Regional Transplant Community at 703-641-0100. By law, your DPOA by law must follow your directives about these donations.

Will my advance directive be followed in an emergency if I cannot make my wishes known?

Emergency medical personnel, such as rescue squads or ambulance teams, by law cannot follow your wishes in an advance directive if they are called to help you in an emergency. Also, hospital emergency room providers may not know your wishes in an emergency. But if you have a terminal or serious condition, under certain circumstances you can make decisions in advance about refusing one type of emergency medical care = resuscitation if your heart stops beating or you stop breathing. You do this by having your doctor complete a “Durable Do Not Resuscitate Order” (often called a “Durable DNR order”) for you on a form approved by the state. Your doctor also may write a hospital Do Not Attempt Resuscitation/Allow a Natural Death (DNAR/AND) order to be followed in a hospital or nursing home/long term care facility. This order is valid unless you revoke it — that is, when you are able to make decisions you change your mind and tell your doctor that you do want to be resuscitated. Your DPOA may not revoke your DDNR.

Must an advance directive be in writing?

No but there are special circumstances for this allowance. The Healthcare Decisions Act allows people who have a terminal condition and who never signed an advance directive to make an oral advance directive. They may say what they want, or name a person to make decisions for them, in the presence of the attending physician and two witnesses. The physician will then document the contents of the oral advance directive in the medical record and identify the witnesses.

Must I have an advance directive?

No. An advance directive is just one way of being sure your doctors and your loved ones know what healthcare you want especially when you cannot tell them yourself. You may have only one, two, or all three types of advance directives. The law requires that healthcare providers not discriminate against people based on whether or not they have an advance directive.

What happens if I cannot make decisions and I have no advance directive?

Virginia law lists persons such as guardians or family members as people who may make decisions about your medical care even if you have no advance directive. In Virginia, the hierarchy of decision makers is first, legal guardian, then DPOA for Healthcare Decisions, spouse, children and finally, other available relatives. If no listed person is available to decide for you, a judge can decide what treatment is best. Life partners or friends are not eligible to make decisions for patients unless they have been designated in the advance directive as the durable power of attorney for healthcare decisions.

Do I need a lawyer to help me make an advance directive?

No. A lawyer is helpful, but you do not have to have a lawyer prepare any of the types of advance directive. In fact, the Healthcare Decisions Act offers a form that you may use and is included in this booklet. The document does not need to be notarized but must be witnessed by two persons over the age of 18. The witnesses are confirming by their

signatures that you did sign the document, but the witnesses do not affirm the validity of the content. It is suggested that neither of your two witnesses be the person, you have appointed as your DPOA, so as to avoid any appearance of conflict of interest.

What if I change my mind after I sign an advance directive?

You can revoke it. If you want to, you can make a new one. If you are a patient or resident in a healthcare facility, tell your doctor or nurse that you want to revoke or change your advance directive. It is best to destroy all copies of the old one to avoid any confusion in a time of crisis about what decisions for your care should be made and by whom.

How will my doctor(s) know I have an advance directive?

Upon admission, hospitals and other healthcare facilities must ask patients or residents if they have an advance directive and, if so, must place a copy of the directive in the patient's or resident's medical record. In any case, you should give copies of your advance directive to your family and to your doctor, and to anyone else you think needs to know what medical treatment you do or do not want. But remember, too, to provide each one of these people updated copies if you change your advance directives.