

### **What is an advance directive?**

An advance directive is a written document that guides your healthcare decisions when you are unable to do so yourself.

### **What kind of advance directives are recognized in Minnesota?**

Prior to August 1, 1998, Minnesota law authorized two types of advance directives -- the **Living Will** and the **Durable Health Care Power of Attorney**. As of August 1, 1998, Minnesota law was changed to simplify the preparation of advance directives by combining the provisions relating to living wills and health care powers of attorney. The new advance directive is called a **Health Care Directive**.

Advance directives created prior to August 1, 1998 are still legal if they follow the law in effect at the time the document was written; however, it is a good idea to review these documents to make sure they say what you want and meet all legal requirements.

### **Why have an advance directive?**

Adults have a right to control their own medical care. An advance directive allows you to retain control of that right, even when you are unable to communicate your preferences. A written directive lets your family and your doctor know the kind of health care treatment you do or do not want if you cannot speak for yourself. It is a legally enforceable document that helps to avoid family disagreements, guilty feelings and doubts about how to treat you when you are unable to make that decision for yourself.

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# MINNESOTA ADVANCE DIRECTIVES



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## Am I required by law to have an advance directive?

No.

## What happens if I don't have an advance directive?

If you do not have an advance directive, and are not able to make health care decisions for yourself, no one has the legal authority to make your decisions. Your health care provider will consult with your family members, close friends or court-appointed guardian to determine your course of treatment. If a dispute arises over what kind of care you should receive, your loved ones may need to spend time and money in court to determine what treatment should be given.

## Who may execute an advance directive?

Any competent person 18 years of age or older may execute an advance directive.

## When should I prepare an advance directive?

Whether you are 18 or 80, the time to prepare an advance directive is **NOW!** Advance directives are not only for older persons; younger persons may also become incompetent or unable to communicate their wishes. Prepare an advance directive while your health still permits you to do so.

## How long does an advance directive last?

An advance directive lasts from the time it is created until your death, unless revoked or changed. You may revoke or change your directive by doing any of the following:

- Writing and signing a cancellation;
- Tearing, burning, obliterating or destroying the document or directing someone else to do so in your presence;
- Telling at least two other people and your doctor that you want to cancel your advance directive; or
- Writing a new advance directive

## Where is my advance directive valid?

Your advance directive is valid in the state where it was created. In most circumstances, it is also valid in other states as long as it complied with the laws of the state where it was prepared.

## Where should I keep my advance directive?

Keep one copy of your advance directive with your other important documents. Keep the original in a safe, *accessible* place, not in a safe deposit box. Inform your loved ones, doctors, health care agents and alternate agents that you have an advance directive and provide them with copies. Keep a card in your wallet that indicates the existence and location of your advance directive and carry a copy of your advance directive with you while traveling.

## Who should I name as my health care agent?

Your agent must be a competent adult at least 18 years of age. Your agent cannot be your health care provider unless that person is a relative. You should choose someone you trust and should fully inform that person of your treatment preferences. You may name alternate and/or joint agents.

## What powers does my health care agent possess?

Your agent's main responsibility is to understand your beliefs and concerns about medical treatment and to make decisions regarding your health care which are consistent with those beliefs and concerns. Your agent is not authorized to make financial decisions on your behalf. This power is generally granted through a Durable Power of Attorney.

## Do I have to use a specific form?

Although both Wisconsin and Minnesota have developed statutory advance directive forms, you are not required to use a specific form for your advance directive. In order to make the document legal, however, you must observe certain signing requirements. In **Wisconsin** you must sign your Declaration to Physicians and/or Power of Attorney for Health Care in the presence of two adult, disinterested witnesses.

In **Minnesota**, you must sign your Health Care Directive in the presence of either two adult, disinterested witnesses or a notary public.