

Medical Care Decisions & Advance Directives

What You Should Know



What is an advance directive?

An advance directive is a set of directions you give about the health/mental health care you would want if you ever lose the ability to make decisions for yourself. North Carolina has three ways for you to make a formal advance directive.

- Living will
- Health care power of attorney
- Advance instruction for mental health treatment

What is a living will?

In North Carolina, a living will is a document that tells others what choices you want made if you have one of three conditions: (1) an incurable or irreversible condition that will result in your death within a relatively short period of time, (2) become unconscious and to a high degree of medical certainty, will never regain consciousness or (3) suffer advanced dementia or other substantial loss of cognitive ability that is irreversible. With a living will, you can express your desire for your doctors to use or not to use life-prolonging measures such as mechanical ventilation, dialysis, antibiotics, artificial nutrition and hydration, and similar forms of treatment. Life-prolonging measures do not include comfort measures or palliative care. This document can also give guidance to your family or health care agent if you have a health care power of attorney.

What is a health care power of attorney?

In North Carolina, you can appoint any adult you trust to make medical/ mental health care decisions for you if you become unable to decide yourself. This person is called your “health care agent.” In this legal document you name who you want your health care agent to be and describe the care you want or do not want. It is important that you discuss with your health care agent what medical/mental health treatments you would want and what you would not want if you become unable to make or express your wishes yourself. Your health care agent then knows what choices you would make.

What is an advance instruction for mental health treatment?

In North Carolina, an advance instruction for mental health treatment is a legal document that tells doctors and health care providers what mental health treatments you would want and what treatment you would not want if you later become unable to decide for yourself. The designation of a person to make your mental health care decisions, should you be unable to make them yourself, may be established as part of a valid health care power of attorney.

Who decides about my medical care or treatment?

If you are 18 or older and have the capacity to make and communicate health care decisions, you have the right to make decisions about your medical/mental health treatments. You are the only person who can communicate decisions about creating these documents. These documents cannot be completed for you by any other person. You should talk to your doctor or other health care provider about any recommended treatments or procedures so that you understand what will be done and why. You have the right to say yes or no to treatments recommended by your doctor or mental health provider. If you want to control decisions about your health/mental health care even if you become unable to make or to express them yourself, you will need an advance directive.

Do I have to have an advance directive, and what happens if I don't?

Making a living will, a health care power of attorney, or an advance instruction for mental health treatment is your choice. If you become unable to make your own decisions and you have no advance directive, your health care provider is required to follow the law which provides a listing in order of priority for who the decision maker is. If you do not have an advance directive, especially if you lose the ability to make decisions for a portion of your stay, you may be given written information regarding advance directives before discharge from the hospital.

How do I make an advance directive?

You must follow several guidelines when you complete an advance directive. These guidelines are to protect you and ensure that your wishes are clear to the doctor or other providers who may be asked to carry them out. A living will, a health care power of attorney and an advance instruction for mental health treatment must be written and signed by you while you are still able to understand your condition and treatment choices and to make those choices known. Two qualified people must witness all three types of advance directives and each must be notarized. Generally, these witnesses need to be “independent,” meaning they cannot be family members, someone expected to receive part of your estate, have a claim against your estate, your physician, or an employee of your health care provider.

Are there forms I can use to make an advance directive?

Yes. There is a living will form, a health care power of attorney form and an advance instruction for mental health statutory form that you can use.

At WakeMed, we often provide patients with a form called “An Advance Directive for North Carolina A Practical Form for All Adults”, which gives adults ages 18 and older who are able to communicate their health care decisions the ability to create a Health Care Power of Attorney and/or Living Will in one form. The forms meet all of the requirements for an advance directive in North Carolina. If you would like copies of these forms, contact WakeMed Spiritual Care or WakeMed Case Management. You may elect to use a different form if you prefer, but we cannot prepare any forms for you.

Additionally, patients ages 18 and older who are diagnosed with a terminal illness or frailty that requires care in a medical setting may have the option to complete a “Medical Orders for Scope of Treatment” (MOST) form in consultation with a qualified health care professional. A MOST form describes your wishes related to life-sustaining measures such as cardiopulmonary resuscitation (CPR), intubation, antibiotic use and feeding tubes. It can be used in addition to or as a replacement for a “Do Not Resuscitate” (DNR) form. It does not replace a previously executed advance directive, but in the event that there is a conflicting order between the MOST and the advance directive, the MOST’s instructions may prevail as it is meant to reflect the patient’s most current preferences.

When does an advance directive go into effect?

A living will goes into effect when two physicians determine that you are unable to make decisions, going to die soon and cannot be cured, or when you are unconscious and, to a high degree of medical certainty, will never regain consciousness, or you have advanced dementia or other substantial loss of cognitive ability that, to a high degree of medical certainty, is irreversible.

The powers granted by your health care power of attorney generally go into effect when your doctor states in writing that you are unable to make or to make known your health care choices.

The doctor will follow the instructions you have included in your advance instructions for mental health after he or she determines that you are incapable to make and make known your choices about mental health treatment.

What happens if I change my mind?

You can cancel your living will at any time, regardless of your physical or mental condition, in writing or in any manner which clearly communicates your intent to revoke.

You can cancel your health care power of attorney at any time you are capable by executing a new one, reinstating an old one, revoking or changing a new one in writing, or expressing your desire to change your health care power of attorney to your health care agent and doctor.

You can change or cancel your advance instruction for mental health treatment as long as you are not incapable to make and communicate your decision to your doctor.

The revocation of any of the above will become effective only upon communication to the attending physician, and, if it is a health care power of attorney to be revoked, to each health care agent named.

With whom should I talk about an advance directive?

You should talk to those closest to you about an advance directive and express your feelings about the health care you would like to receive. Your doctor or health care provider can answer medical questions. Your lawyer can answer questions about the law. The hospital’s lawyer cannot provide you legal advice. Some people also discuss the decision with clergy or other trusted advisors. WakeMed Spiritual Care and Case Management staff are available to provide additional education and assistance as needed.

Where should I keep my advance directive?

Keep a copy in a safe place where your family members can access it. You may also want to give copies to your family/significant others, your doctor, other health care providers and your health care agent.

You may also file your advance directive with the North Carolina statewide online central registry called Advance Health Care Directive Registry. To do so, go to www.ssosnc.gov/ahcdr and click on “Directives on File.” At the time you register your advance directive online, you will be given a file number and password. Please keep that file number and password handy as your care provider may ask you for it in order to obtain a copy of your advance directive for your medical record. There is a \$10 fee for each advance directive that is registered.

Bring your advance directive with you every time you come to the hospital or Emergency Department.

Are there other forms that will help ensure my health care decisions are known and followed?

Yes. Other forms you may want to be aware of include an Organ Donor card, Portable Do Not Resuscitate (DNR) orders and a Medical Order for Scope of Treatment (MOST) form.

Portable Do Not Resuscitate (DNR) orders

A Portable DNR order is a medical order that can be followed by emergency medical responders and other health care providers. It tells them not to attempt cardiopulmonary resuscitation if your heart and breathing stops (cardiopulmonary arrest). You need to keep the original with you as a copy generally cannot be accepted by itself. It is portable; therefore it can be followed in different settings such as your home, a nursing home or a hospital. Because a Portable DNR is a medical order, it must be signed by your physician, physician assistant or nurse practitioner before it can go into effect. It can be cancelled by destroying the document or writing “void” across the form. For more information, speak with your physician.

Organ Donor Card

You may indicate your desire to become a donor by checking “Yes” on your driver’s license, carrying a valid donor card, including your wishes in your health care power of attorney and telling your family. You may also document your wishes on the state’s Advance Health Care Registry at www.secretary.state.nc.us/ahedr. For more information visit the Carolina Donor Services website: www.carolinadonorservices.org.

Medical Order for Scope of Treatment

A MOST form, like a Portable DNR order, is a medical order that can be followed in different settings such as your home, a nursing home or a hospital. It was developed by the state of North Carolina to be used in addition to, or instead of, a living will. On the MOST form, you can indicate your preferences regarding cardiopulmonary resuscitation, medical interventions, antibiotics and medically administered hydration and nutrition. You need to keep the original with you as a copy generally cannot be accepted by itself. You and

your physician (or physician assistant or nurse practitioner) must sign your MOST form in order for it to become a legal document. If you are not able to make or communicate your health care decisions, the person who is legally recognized to speak for you must sign your MOST form. A MOST form can be cancelled by destroying the original form or writing “void” across it. Your physician can provide you with a MOST form to complete. Speak to your physician for additional information.

Where can I get more information?

To get more information about advance directives contact:

WakeMed Raleigh Campus

Spiritual Care Department
919-350-8556

Case Management
919-350-5401

WakeMed Cary Hospital

Spiritual Care Department
919-350-2536

Case Management
919-350-2410

WakeMed North Hospital

Spiritual Care Department
919-350-8556

Care Navigation
919-350-4380

North Carolina Secretary of State’s Advance Health Care Directive Registry

www.sosnc.gov/ahcdr/

If you have questions, please write them down so they can be addressed when a WakeMed Spiritual Care representative comes to speak with you.

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