

Washington



Planning Ahead:

How to Make Future Health
Care Decisions **NOW**

Your Questions Answered About Washington Living
Wills and Powers of Attorney for Health Care

 Health
AllianceSM



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What You Need to Know About Advance Directives

You have the right to give directions—in advance—about the kind of health care you want if the time comes when you cannot make your own decisions.

You can control your future health care by completing a form naming a trusted relative or friend to communicate for you. These forms, called

advance directives, tell the kinds of life-sustaining treatment you want.

The next pages list commonly asked questions about advance directives, and this booklet provides examples of a living will and health care power of attorney form that you can choose to complete. ■

Health Care Power of Attorney Questions

What is health care power of attorney?

A health care power of attorney is a document you sign that names another person, called your “agent,” to make health care decisions for you if you are unable to do so.

Who can create a health care power of attorney?

Any competent person who is at least 18 years old may create and sign a health care power of attorney. You don’t need a lawyer to complete the document.

Who can act as an agent?

Any person who is at least 18 years old and is able to understand and decide about health care matters can be an agent. However, no physician, nurse or other health care provider who is giving you treatment may act as your health care agent. Most people choose a trusted relative or friend.

What happens if I name my spouse as an agent and we are later divorced?

Your ex-spouse will no longer have authority to act under the health care power of attorney. Even so, you should attempt to destroy all copies of the power of attorney, because doctors or hospitals may rely on it if they don’t know about the divorce.

Will my agent be held liable for my health care costs?

No, your agent will not be held personally responsible for the cost of health care services and treatment that he or she arranges.

How do I create a health care power of attorney?

The surest way is to complete and sign Washington’s Durable Power of Attorney for Health Care form. Washington does not require notarization. However, some states do require it, so you may want to do so in case you travel out of state.

What powers do I give to my agent by completing the form?

After the power of attorney for health care goes into effect, your agent may make any health care decision that you could make if you were able to do so. However, you can limit your agent's powers or give your agent special instructions by clearly stating them in your power of attorney.

How do I tell my agent what life-sustaining treatment I want?

Talk personally with your agent and make sure he or she clearly understands your wishes about life-

sustaining treatment. The Health Care Directive form (living will) addresses life-sustaining treatment desires in more detail, so your wishes can be clear.

You may:

1. Choose to fill out the Health Care Directive form, giving your agent the broadest power to decide about life-sustaining treatment; **OR**
2. Write in your own instructions; **OR**
3. Choose any of the statements already listed in the form. ■

Living Will Questions

What is a living will?

A living will (also called a "health care directive") is a document you sign that states you do not want your physician to use death-delaying procedures if you develop a terminal condition.

Who may create a living will?

Any competent person at least 18 years old.

How do I create a living will?

Fill out and sign the Health Care Directive; there is one included in this booklet. It must be signed by you or another person at your direction in the presence of two witnesses.

Who can witness the signing of my living will?

Anyone at least 18 years old who is not:

- Entitled to inherit from your estate
- Financially responsible for your medical care
- The attending physician

- An employee of the attending physician or health care facility in which you are a patient

When does a living will take effect?

In Washington, the directive is used only if you have a terminal condition where life-sustaining treatment would only artificially prolong the process of dying; or if you are in an irreversible coma and there is no reasonable hope of recovery.

What is a death-delaying procedure?

Death-delaying procedures serve only to postpone the moment of death. They may include assisted ventilation, artificial kidney treatments, medication, blood transfusions and tube feeding.

If I have a living will, can I still receive pain medication?

Yes, your physician can provide you with pain medication or other care to make you comfortable. ■

Questions About Durable Health Care Power of Attorney and Living Wills

What happens if I have a living will and a terminal illness and I am pregnant?

A living will does not take effect so long as the attending physician believes the fetus could develop to the point of live birth if death-delaying procedures are used for the mother.

How is a health care power of attorney different from a living will?

A living will takes effect only if you have a terminal illness and cannot speak for yourself. Also, it addresses only decisions concerning life-sustaining treatment. A health care power of attorney is broader and more flexible and, in that way, is

continued →

preferable to a living will. Under a health care power of attorney, your agent can make health care decisions for you in any situation when you are unable to do so.

Should I have both a health care power of attorney and a living will?

Your living will does not take effect so long as your agent under a health care power of attorney is available and willing to make life-sustaining treatment decisions. If you do not wish to be kept alive by life-sustaining treatment, you should consider signing both documents because:

- The living will reinforces the intent of the power of attorney for health care.
- Your agent under the health care power of attorney may die or be unable or unwilling to act when it comes time to make health care decisions.



Will hospitals and physicians honor my living will and health care power of attorney?

Providers must comply with health care decisions of a health care agent or the directions stated in a living will unless they are morally opposed to them. If the provider is unwilling to comply, the provider must inform your agent, who is then responsible for arranging your transfer to another provider.

For how long are my living will and power of attorney for health care effective?

They remain valid until you revoke them.

What should I do with my signed health care power of attorney and living will?

Copies should be given to the people you have named as the agent and successor agents under the health care power of attorney. Give copies to your physician, family and friends, and discuss your wishes with them all as well. Let your agent know where the original documents are kept.

In case of an emergency, how will a hospital know that I have a living will or who my health care agent is?

A hospital can locate your agent or living will if you complete the Health Care Agent/Living Will wallet identification card included in this booklet and carry it with you in your wallet or purse.

Can I revoke or change my health care power of attorney or my living will?

They can be revoked at any time, regardless of your physical or mental condition, by doing one of the following:

- Tear up or otherwise destroy the document; **OR**
- Revoke the document in writing, sign and date it, or direct someone else to do it for you; **OR**
- Express (orally or otherwise), in the presence of an adult* witness, your intent to revoke the document. Have the witness sign and date a statement confirming that such an expression of intent was made.

To change your health care power of attorney, write in the changes and sign and date the document. To change your living will, revoke the current form and sign a new one. Also, a court may revoke or change your documents if it believes clarification is needed or your agent is not acting in your best interests.

Should I have my living will and health care power of attorney notarized?

It is recommended that you have your documents notarized because some other states require notarization. ■

*In Washington, an adult is defined as someone 18 years or older, or someone under 18 who is or has been married.

Mental Health Advance Directive

What is a mental health advance directive?

It is a written document that describes what you want to happen if you become so incapacitated by mental illness that your judgment is impaired and/or you are unable to communicate effectively. It can inform others about what treatment you want or don't want, and it can identify a person to whom you have given the authority to make decisions on your behalf. To learn more, call 360-725-3709 or download and print the form at: www.dshs.wa.gov/dbhr/advdirectives.shtml.

How does a mental health advance directive differ from other advance directives?

If you have a mental health advance directive and you need mental health treatment, you may

not revoke the advance directive unless you specifically state in the advance directive that you want it to be revocable when you are incapacitated. The Durable Power of Attorney for Health Care and Health Care Directive may be revoked at any time regardless of your mental condition.

How do I create a mental health advance directive?

Complete and sign the form, which you can download here: www.dshs.wa.gov/dbhr/advdirectives.shtml. Your mental health provider may also have copies of the form. ■

Health Care Surrogates

What is a health care surrogate?

A surrogate is someone who, in the absence of an advance directive, can make medical decisions for you if you are unable to do so.

What decisions can a surrogate make?

In Washington, surrogates are authorized to make medical decisions on your behalf if you are unable to do so. A surrogate may not make decisions concerning electroconvulsive therapy, psychotropic drugs or admission to a mental health facility.

Who may act as a surrogate?

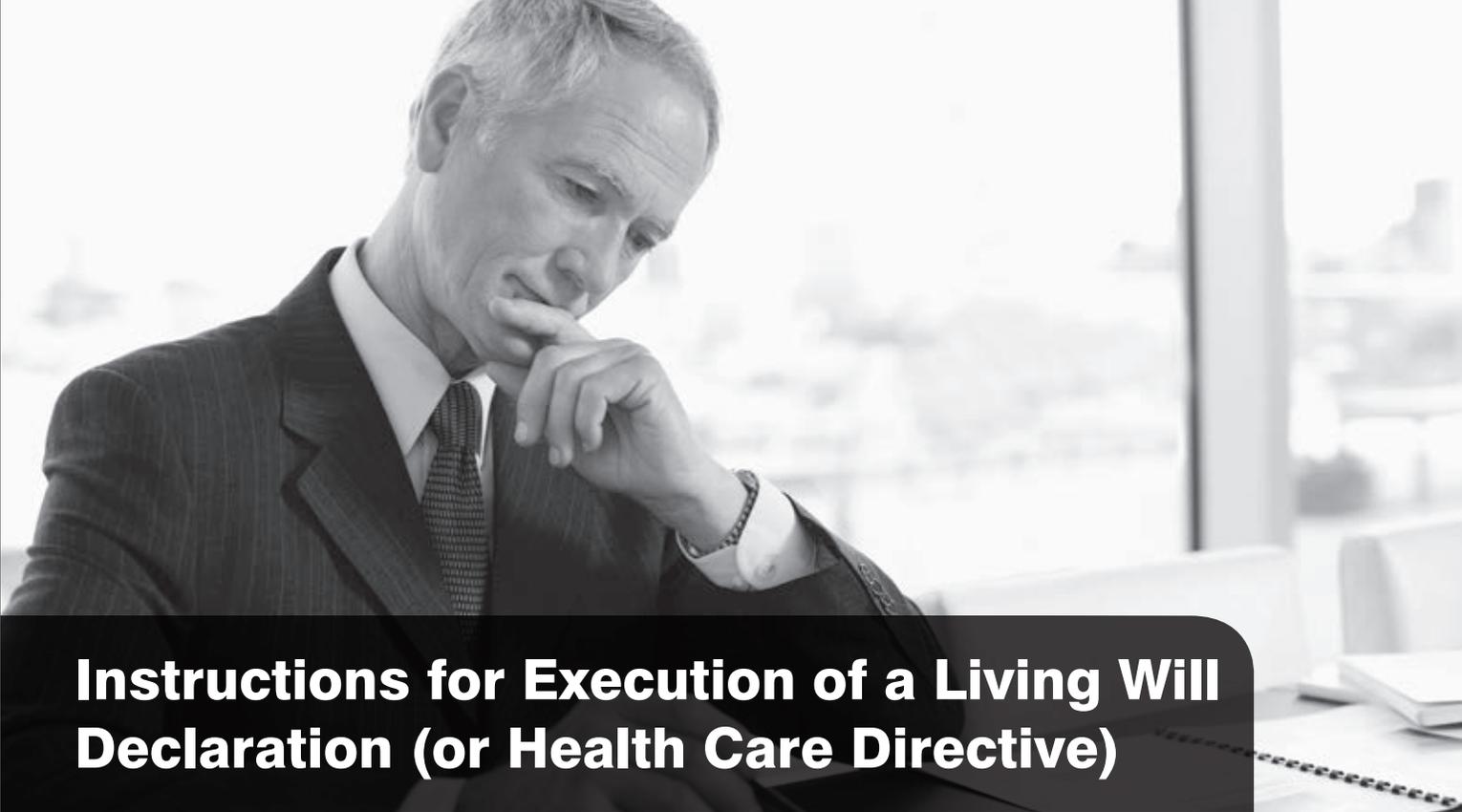
In Washington, the people authorized to make medical decisions on behalf of an incompetent individual are as follows, in order of priority:

1. The appointed guardian of the patient, if any.

2. The individual, if any, to whom the patient has given a durable power of attorney that encompasses the authority to make health care decisions.
3. The patient's spouse or state registered domestic partner.
4. Children of the patient who are at least 18 years of age.
5. Parents of the patient.
6. Adult brothers and sisters of the patient.

With a health care surrogate, why should I create a health care power of attorney?

A health care power of attorney allows you to name your agent and give him or her instructions now, while you are still able to communicate. ■



Instructions for Execution of a Living Will Declaration (or Health Care Directive)

1. An individual of sound mind and having reached the age of majority (18 in Washington) may execute a living will declaration.
 2. The declaration must be signed by the individual, or by another person at the direction of the individual, and witnessed by two adults* who are not entitled to any portion of the estate of the individual if the individual dies without a will; who are not, to the best of the witness's knowledge, a beneficiary under the individual's will and who are not financially responsible for the individual's medical care.
 3. If the individual is an emancipated minor or if the living will is to be signed by another person at the direction of the individual, you should consider consulting your attorney. In addition, if you have any questions about the living will declaration or what it means, you should consult your attorney.
- Please remember that health care employees involved in your care may not witness the above-named documents. We also encourage you to discuss your plans with your family, your physician and your attorney. ■

Directions for Completing a Durable Power of Attorney for Health Care

1. Read through the bullet points carefully and the statement under "Creation of Durable Power of Attorney for Health Care." Make sure you understand and agree with the statements.
 2. Fill out the "Designation of Health Care Agent and Alternate Agents" section with the name and information of the people you want to name as your health care agent and successor agent(s).
 3. Read through "General Statement of Authority Granted." Make sure you understand and agree with the statements.
 4. Write in any provisions (limitations), or leave it blank if you have none.
 5. Washington does not require notarization. However, some states do require it, so you may want to do so in case you travel out of state.
- Be sure to also read and sign the Information Release in this booklet. ■

*In Washington, an adult is defined as someone 18 years or older, or someone under 18 who is or has been married.

HEALTH CARE DIRECTIVE

Directive made this _____ day of _____, _____
(Year)

I, _____ being of sound mind, willfully, and voluntarily make known my desire that my dying shall not be artificially prolonged under the circumstances set forth below, and do hereby declare that:

- (A) If at any time I should have an incurable and irreversible condition certified to be a terminal condition by my attending physician, and where the application of life-sustaining treatment would serve only to artificially prolong the process of my dying, I direct that such treatment be withheld or withdrawn, and that I be permitted to die naturally. I understand "terminal condition" means an incurable and irreversible condition caused by injury, disease or illness that would, within reasonable medical judgment, cause death within a reasonable period of time in accordance with accepted medical standards.
- (B) If I should be in an irreversible coma or persistent vegetative state, or other permanent unconscious condition as certified by two physicians, and from which those physicians believe that I have no reasonable probability of recovery, I direct that life-sustaining treatment be withheld or withdrawn.
- (C) If I am diagnosed to be in a terminal or permanent unconscious condition, [*Choose one*]
I want _____ do not want _____
artificially administered nutrition and hydration to be withdrawn or withheld the same as other forms of life-sustaining treatment. I understand artificially administered nutrition and hydration is a form of life-sustaining treatment in certain circumstances. I request all health care providers who care for me to honor this directive.
- (D) In the absence of my ability to give directions regarding the use of such life-sustaining procedures, it is my intention that this directive shall be honored by my family, physicians and other health care providers as the final expression of my fundamental right to refuse medical or surgical treatment, and also honored by any person appointed to make these decisions for me, whether by durable power of attorney or otherwise. I accept the consequences of such refusal.
- (E) If I have been diagnosed as pregnant and that diagnosis is known to my physician, this directive shall have no force or effect during the course of my pregnancy.
- (F) I understand the full import of this directive and I am emotionally and mentally competent to make this directive. I also understand that I may amend or revoke this directive at any time.
- (G) I make the following additional directions regarding my care:

Signed: _____

The declarer has been personally known to me and I believe him or her to be of sound mind. In addition, I am not the attending physician, an employee of the attending physician or health care facility in which the declarer is a patient, or any person who has a claim against any portion of the estate of the declarer upon the declarer's decease at the time of the execution of the directive.

Witness: _____

Witness: _____

What to do with these forms

Copies of the Health Care directive (Living Will) and the Durable Power of Attorney for Health Care should be given to your physician to be included in your medical record, to any person to whom you give your durable power of attorney, including any successor agents you may have named, and to your personal attorney. The originals should be kept by a designated person or in a designated place where they can be obtained in any emergency situation.

For further information

These forms have been provided to you as a public service by the Washington State Medical Association. Any legal questions you may have about the execution or operation of a Durable Power of Attorney for Health Care should be directed to a lawyer.

DURABLE POWER OF ATTORNEY FOR HEALTH CARE

Notice to Person Executing This Document

This is an important legal document. Before executing this document you should know these facts:

- This document gives the person you designate as your Health Care Agent the power to make MOST health care decisions for you if you lose the capability to make informed health care decisions for yourself. This power is effective only when you lose the capacity to make informed health care decisions for yourself. As long as you have the capacity to make informed health care decisions for yourself, you retain the right to make all medical and other health care decisions.
- You may include specific limitations in this document on the authority of the Health Care Agent to make health care decisions for you.
- Subject to any specific limitations you include in this document, if you do lose the capacity to make an informed decision on a health care matter, the Health Care Agent *GENERALLY* will be authorized by this document to make health care decisions for you to the same extent as you could make those decisions yourself, if you had the capacity to do so. The authority of the Health Care Agent to make health care decisions for you *GENERALLY* will include the authority to give informed consent, to refuse to give informed consent, or to withdraw informed consent to any care, treatment, service, or procedure to maintain, diagnose, or treat a physical or mental condition. You can limit that right in this document if you choose.
- A Health Care Agent can only act under state law. “Mercy killing” is not allowed under Washington state law. A Health Care Agent will **NEVER** be allowed to authorize “mercy killing,” euthanasia or any procedure which would actually speed up the natural process of dying.
- When exercising his or her authority to make health care decisions for you when deciding on your behalf, the Health Care Agent will have to act consistent with your wishes, or if they are unknown, in your best interest. You may make your wishes known to the Health Care Agent by including them in this document or by making them known in another manner.
- When acting under this document the Health Care Agent *GENERALLY* will have the same rights that you have to receive information about proposed health care, to review health care records, and to consent to the disclosure of health care records.

1. Creation of Durable Power of Attorney for Health Care

I intend to create a power of attorney (Health Care Agent) by appointing the person or persons designated herein to make health care decisions for me to the same extent that I could make such decisions for myself if I was capable of doing so, as recognized by RCW 11.94.010. This designation becomes effective when I cannot make health care decisions for myself as determined by my attending physician or designee, such as if I am unconscious, or if I am otherwise temporarily or permanently incapable of making health care decisions. The Health Care Agent’s power shall cease if and when I regain my capacity to make health care decisions.

2. Designation of Health Care Agent and Alternate Agents

If my attending physician or his or her designee determines that I am not capable of giving informed consent to health care, I _____, designate and appoint:

Name _____ Address _____

City _____ State _____ Zip _____ Phone _____

as my attorney-in-fact (Health Care Agent) by granting him or her the Durable Power of Attorney for Health Care recognized in RCW 11.94.010 and authorize her or him to consult with my physicians about the possibility of my regaining the capacity to make treatment decisions and to accept, plan, stop, and refuse treatment on my behalf with the treating physicians and health personnel.

In the event that _____ is unable or unwilling to serve, I grant these powers to

Name _____ Address _____

City _____ State _____ Zip _____ Phone _____

In the event that both _____ and _____

are unable or unwilling to serve, I grant these powers to

Name _____ Address _____

City _____ State _____ Zip _____ Phone _____

Your name (print) _____

3. General Statement of Authority Granted.

My Health Care Agent is specifically authorized to give informed consent for health care treatment when I am not capable of doing so. This includes but is not limited to consent to initiate, continue, discontinue, or forgo medical care and treatment including artificially supplied nutrition and hydration, following and interpreting my instructions for the provision, withholding, or withdrawing of life-sustaining treatment, which are contained in any Health Care Directive or other form of "living will" I may have executed or elsewhere, and to receive and consent to the release of medical information. When the Health Care Agent does not have any stated desires or instructions from me to follow, he or she shall act in my best interest in making health care decisions.

The above authorization to make health care decisions does not include the following absent a court order:

- (1) Therapy or other procedure given for the purpose of inducing convulsion;
- (2) Surgery solely for the purpose of psychosurgery;
- (3) Commitment to or placement in a treatment facility for the mentally ill, except pursuant to the provisions of Chapter 71.05 RCW;
- (4) Sterilization.

I hereby revoke any prior grants of durable power of attorney for health care.

4. Special Provisions

DATED this _____ day of _____, _____ (Year)

GRANTOR _____

STATE OF WASHINGTON)
(COUNTY OF _____))ss.

I certify that I know or have satisfactory evidence that the GRANTOR, _____ signed this instrument and acknowledged it to be his or her free and voluntary act for the uses and purposes mentioned in the instrument.

DATED this _____ day of _____, _____ (Year)

NOTARY PUBLIC in and for the State of Washington,
residing at _____
My commission expires _____

Information Release

This form authorizes health care facilities to share your medical information with your health care agent.

This declaration is made this _____ day of _____, _____.

I, _____,
being of sound mind, willfully and voluntarily make known my desires that my moment of death should not be artificially postponed.

If at any time I should have an incurable and irreversible injury, disease or illness judged to be a terminal condition by my attending physician who has personally examined me and has determined that my death is imminent except for death-delaying procedures, I direct that such procedures which would only prolong the dying process be withheld or withdrawn, and that I be permitted to die naturally with only the administration of medication, sustenance or the performance of any medical procedure deemed necessary by my attending physician to provide me with comfort care.

In the absence of my ability to give directions regarding the use of such death-delaying procedures, it is my intention that this declaration shall be honored by my family and physician as the final expression of my legal right to refuse medical or surgical treatment and accept the consequences from such refusal.

Signed _____

City, County and State of Residence

The declarant is personally known to me and I believe him or her to be of sound mind. I saw the declarant sign the declaration in my presence (or the declarant acknowledged in my presence that he or she had signed the declaration) and I signed the declaration as a witness in the presence of the declarant. I did not sign the declarant's signature above for or at the direction of the declarant. At the date of this instrument, I am not entitled to any portion of the estate of the declarant according to the laws of interstate succession or, to the best of my knowledge and belief, under any will or declarant or other instrument taking effect at the declarant's death, or directly financially responsible for the declarant's medical care.

Witness _____

Witness _____





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