

WHO WILL MAKE MEDICAL DECISIONS FOR YOU IF YOU NO LONGER CAN?



It's Your Health.
It's Your Choice.



Advance Care Planning

Your Guide to Iowa Advance Care Directives and Durable Power Attorney for Health Care

It's almost impossible to know what a person's wishes truly are unless they have been discussed ahead of time.

Planning ahead can give your principal caregiver, family members, and other loved ones peace of mind when it comes to making decisions about your future health care. It lets everyone know what is important to you, and what is not.

Talking about your wishes ensures greater quality of life, even when faced with a life-limiting illness or tragic accident. When your loved ones are clear about your preferences for treatment, they're free to devote their energy to care and compassion.

In addition to speaking with your family and friends, it's important that you discuss your health care desires with your physician. He or she is likely to be the one caring for you when your instructions become relevant and is much more likely to honor requests that have been communicated directly.

Your physician can also help you phrase your requests in a way that makes sense to medical professionals and can answer any questions you may have about end-of-life care.



Iowa Advance Care Directive

What is an advance care directive or living will?

An advance care directive, commonly referred to as a "living will," is a legal document that sets forth your personal wishes with respect to medical care. All adults have the basic right to control decisions about their own medical care. People have the right to decide whether they want to receive certain medical treatments. You can choose to decline medical procedures that only prolong the process of dying, or choose to use those procedures if you are terminally ill.

Iowa law ensures that the rights and desires of the terminally ill are honored. It provides that adults can direct, in advance, whether they want to be kept alive by artificial means in the event they become terminally ill and are incapable of taking part in

decisions regarding their medical care. Because this written declaration is signed in advance of its use it is referred to as an Advance Care Directive.

Federal law requires hospitals and long-term care facilities to notify persons being admitted of their right to execute advance directives.

How do I make an advance care directive?

An advance care directive can only be made by a competent adult who is age 18 or older. The declaration can be signed in the presence of two witnesses or a notary public. The witnesses must be age 18 or older; and, if possible, should not be members of the family.

A health care provider and its employees cannot be the witnesses.

The witnesses must also sign the document. The declaration must be signed voluntarily.

A declaration made in another state or jurisdiction that is consistent with Iowa law will be valid in Iowa.

What should I do with my advance care directive once it is signed?

The original advance care directive must be given to your doctor to act on it. Under Iowa law, it is your responsibility to provide your attending physician with the declaration. An attending physician is the doctor who is primarily responsible for your care. The doctor may not always be your family doctor. It is a good idea to give a copy of the document to your family doctor for his or her files. In addition, the advance care directive's existence should be made known to members of your family.

Your Advance Care Directive is an important legal document. Keep the original signed document in a secure, but accessible, place. Do not put the original document in a safe deposit box or any other security box that would keep others from having access to it.

If you enter a senior living community or hospital, have photocopies of your document placed in your medical record.

When should I make an advance care directive?

If you are age 18 or older and competent, you can execute an advance care directive at any time. It can be signed before or after the diagnosis of a terminal illness. Federal law requires medical facilities to inform patients, prior to admission, of the right to sign an advance care directive or health care power of attorney.

How does the advance care directive affect my medical treatment?

You may direct your doctors to withhold or withdraw life-sustaining procedures in the event you become terminally ill, are unable to participate in the decision-making process and the use of life-sustaining procedures will merely prolong the dying process.

What is a terminal condition?

Under Iowa law, a terminal condition is defined as an incurable or irreversible condition that without life-sustaining procedures, results in death within a relatively short time or a comatose state from which there can be no recovery, to a reasonable degree of medical certainty.

What are life-sustaining procedures?

Under Iowa law, a life-sustaining procedure refers to any medical procedure or treatment that meets the following requirements.

1. The use of a mechanical or artificial means to sustain, restore or take the place of spontaneous vital function, and which,
2. When applied to a patient in a terminal condition, would serve only to prolong the dying process.

Iowa law includes the withdrawal of nutrition and hydration as a life-sustaining procedure, but only when required to be provided parenterally or by intubation. Parenterally is defined as "something introduced to the body other than through the intestine." The term does not include provision of medicine or procedures necessary to provide comfort or ease pain.

Who decides whether my condition is terminal?

Your attending physician makes this decision, but the determination must be confirmed by another physician.

The doctors' conclusions must be entered in your written medical record.

What if I make an advance care directive and then change my mind?

You may revoke an advance care directive at any time simply by notifying your attending physician of your intent to revoke the document. Your intent must be communicated by you or someone else to your attending physician, who will then record this communication as a part of your medical record.

When do the provisions of the advance care directive take effect?

The provisions take effect after your doctor and another doctor decide your condition is terminal and record their conclusions in your medical record; your doctor is presented with your advanced care directive; and you are unable to make decisions regarding your care and treatment.

Even if you have an advance care directive, you have the right to make decisions regarding the use of life-sustaining procedures so long as you can do so. The advance care directive only becomes effective when you are unable to participate in those decisions.

My advance care directive was signed prior to April 23, 1992; is it still valid?

Effective April 23, 1992, Iowa law was amended to include the withdrawal of nutrition and hydration as life-sustaining procedures, and the definition of a terminal condition was expanded to include a comatose state from which no likelihood of recovery is expected. Advance care directives executed prior to this date are still valid; however, their effectiveness will not include these changes in the law. You must affirmatively elect these changes in the law by signing a new advance care directive.

However, if your advance care directive was executed prior to the April 23, 1992, and contained language prohibiting the use of life-sustaining procedures in the case of nutrition, hydration or comatose state, then that language now will be given effect.

What happens if my original advance care directive cannot be found or if someone tampers with, destroys or conceals it?

If the original advance care directive cannot be located, then the law identifies a hierarchy of persons who are authorized to make the decision on your behalf. If your advance care directive is destroyed without your consent, that person has committed a criminal serious misdemeanor.

What if I don't make an advance care directive and I become terminally ill and am unable to make decisions regarding my treatment?

If you have no advance care directive, your treatment decisions may be made, in front of a witness, by the attending doctors and any of the following persons, in the following order:

1. The person you designated in a power of attorney, if any.
2. Your court-appointed guardian, if any. Your guardian must obtain court approval before making this decision.
3. Your spouse.
4. Your adult child. However, if you have more than one child, then the decision must be made by a majority of your available adult children.
5. Your parent or parents.
6. An adult brother or sister.

Does my advance care directive apply in the event of a medical emergency?

Your advance care directive will not be effective in the event of a medical

emergency. Ambulance and hospital emergency department personnel are required to provide cardiopulmonary resuscitation (CPR), unless they are given a separate directive that states otherwise.

These directives called “prehospital medical care directives” or “do not resuscitate orders” are designed for people whose poor health gives them little chance of benefiting from CPR. These directives instruct ambulance and hospital emergency personnel not to attempt CPR if your heart or breathing should stop. Iowa authorizes an “Out-of-Hospital Do-Not-Resuscitate Order.”

Speak to your physician if you are interested in obtaining an Out-of-Hospital Do-Not-Resuscitate Order.

Does an advance care directive affect my life insurance benefits?

Iowa law provides that making an advance care directive does not affect a life insurance policy, whether you already own the policy or are yet to purchase one. You cannot be required to sign an advance care directive to obtain life insurance. Finally, the law specifically provides that death from the withdrawal of life-sustaining procedures pursuant to an advance care directive will not constitute suicide or homicide.

Advance care planning is not just for older adults. At any age, a medical crisis could leave someone too ill to make his or her own healthcare decisions. Even if you are not sick now, making healthcare plans for the future is an important step toward making sure you get the medical care you would want, even when doctors and family members are making the decisions for you.



Durable Power of Attorney for Health Care Decisions

What is a Durable Power of Attorney for Health Care Decisions?

A durable power of attorney for health care decisions is subject to the provisions of Chapter 144B of the Code of Iowa, and allows you (as “Principal”) to name someone (as attorney-in-fact) to make decisions about your medical care, including decisions about life-sustaining procedures, if you can no longer speak for yourself. This person can make decisions at any time, not only at the end of life.

What is the definition of “health care”?

Health care means any care, treatment, service or procedure to maintain, diagnose, or treat an individual’s physical or mental condition. Health care does not include the provision of nutrition or hydration, except when they are required to provide parenterally or through intubation.

What kind of choices can my attorney-in-fact make?

They can decide:

- Which doctors, nurses or social workers may provide care to you.
- Which hospitals or clinics will treat your conditions.
- The types of medicines, immunizations/vaccinations, tests or treatment you could get.

Your attorney-in-fact can also look at your medical records and share your health care information, as needed; sign releases or other forms about your medical treatment; and can decide if you should join a research study.

When does my durable power of attorney for health care decisions go into effect?

It goes into effect when your doctor determines that you are no longer able to make or communicate your healthcare decisions. You may also appoint a designee to make choices regarding the final disposition of your remains.

What if I make a durable power of attorney for health care decisions declaration and then change my mind?

A durable power of attorney for health care may be revoked at any time and in any manner by which the principal can communicate the intent to revoke, without regard to mental or physical condition.

Revocation may be made by notifying the attorney-in-fact orally or in writing.

Revocation can also be made by notifying a health care provider orally or in writing while that provider is engaged in providing health care to the principal. A revocation is only effective as to a health care provider upon its communication to the provider by the principal or by another to whom the principal has communicated revocation. The health care provider is required to document the revocation in the treatment records of the principal.

The principal is presumed to have the capacity to revoke durable power of attorney for health care.

If you appoint your spouse as your attorney-in-fact and your marriage ends, your former spouse’s power is automatically revoked. If you decide to declare a designee to make choices

regarding the final disposition of your remains, you may only revoke that power in a signed writing.

Whom should I appoint as my “attorney-in-fact”?

Your “attorney-in-fact” is the person you appoint to make decisions about your medical care if you become unable to make those decisions yourself. Your attorney-in-fact may be a family member or close friend whom you trust to make serious decisions. The person you name should clearly understand your wishes and be willing to accept the responsibility of making medical decisions for you, sometimes under stressful situations.

The person you appoint as your attorney-in-fact cannot be:

1. A healthcare provider attending to you on the date of execution.
2. An employee of a healthcare provider attending to you on the date of execution, unless the individual to be designated is related to you by blood, marriage or adoption with the third degree of consanguinity.

You can appoint a second person as your alternate attorney-in-fact. The alternate will step in if the first person you name is unable, unwilling or unavailable to act for you.

Should I add special instructions to my durable power of attorney for health care decisions?

If you add instructions to this document, it may help your attorney-in-fact carry out your wishes; however, be careful that you do not unintentionally restrict their authority to act in your best interest.



Who is not allowed to serve as a witness to my durable power of attorney for health care decision?

The following individuals shall not serve as witnesses:

1. A healthcare provider attending to you on the date of execution.
2. An employee of a healthcare provider attending to you on the date of execution.
3. The individual designated in the durable power of attorney for health care decisions as the attorney-in-fact.
4. An individual who is less than eighteen years of age.

One of the witnesses shall be an individual who is not your relative by blood, marriage, or adoption within the third degree of consanguinity.

Does a durable power of attorney for health care decisions affect my life insurance benefits?

Iowa law provides a policy of life insurance shall not be legally impaired or invalidated in any manner by the withholding or withdrawing of health care pursuant to the direction of an attorney-in-fact appointed pursuant to Chapter 144B of the Code of Iowa.

What if I decide not to complete a durable power of attorney for health care decisions form?

You do not have to sign the form.

A health care provider, health care service plan, insurer, self-insured employee welfare benefit plan, or nonprofit hospital plan shall not condition admission to a facility, or the providing of treatment, or insurance, on the requirement that an individual execute a durable power of attorney for health care decisions.

What should I do with the form after it is properly signed, witnessed or notarized?

Place original in a safe place known and accessible to family members or close friends. Provide a true copy to your doctor. Provide a copy to family members. Provide a copy to the designated attorney-in-fact and alternate, if any.

Completing Your Advance Care Directive and Durable Power of Attorney for Health Care Decision Forms

The information in this publication is only a general explanation of the advance care directive and durable power of attorney for health care decisions. Differences in individual circumstances can be important in resolving legal problems, and general information is not a substitute for specific advice from an attorney.

You are encouraged to visit with an attorney before completing any of these forms. If you have a legal problem, do not attempt to solve it based on the information contained in this brochure or the forms alone. To find a legal professional to meet your needs, visit the Iowa State Bar Association online at iowabar.org, call (515) 243-3179 or email isba@iowabar.org.

This publication and forms do not expressly address mental illness. If you would like to make advance care plans involving mental illness, you should talk to your physician and an attorney about a durable power of attorney tailored to your needs.

Advance Care Directive Declaration (Living Will)

If I should have an incurable or irreversible condition that will result either in death within a relatively short period of time or a state of permanent unconsciousness from which, to a reasonable degree of medical certainty, there can be no recovery, it is my desire that my life not be prolonged by the administration of life-sustaining procedures. If I am unable to participate in my healthcare decisions, I direct my attending physician to withhold or withdraw life-sustaining procedures that merely prolong the dying process, and are not necessary to my comfort or freedom from pain.

1. Yes ___ No ___ If medical professionals determine that I may be an organ donor, I agree to the use of life-sustaining procedures, including a ventilator, for the sole purpose and time required to complete the organ donation. Nothing in this paragraph shall be construed to expand or detract from the laws related to anatomical gifts as outlined in the Iowa Code, Chapter 142C. The purpose of this paragraph is to practically and medically make organ donation possible.
2. Yes ___ No ___ I want to donate my organs, tissue and eyes, if able.
3. Yes ___ No ___ I want to have an autopsy performed after death to find out cause of death. (Sometimes an autopsy may be required by law to find out cause of death.)
4. Yes ___ No ___ I wish to donate my body after death to medical science, please call a school listed below. These arrangements must be made before your death.
 - University of Iowa, Department of Anatomy and Cell Biology (319) 335-7762
 - Palmer College of Chiropractic in Davenport (563) 884-5000
 - Osteopathic School of Medicine in Des Moines (515) 271-1400

My wishes for a funeral/memorial/burial or other ceremonies after my death include:

Additional, specific directions (if any): Limitations or special wishes, if any, list below:

Signed this _____ day of _____ (month), _____ (year)

Signature of declarant _____

Type or print name of declarant _____

Date of birth of declarant _____

Address of declarant (street, city, state and zip code) _____

This declaration must be witnessed by two persons or be notarized.

STATE OF IOWA, COUNTY OF _____

This record was acknowledged before me on _____, by _____

Signature of Notary Public _____

Witness No. 1

Witness No. 2

Signature

Signature

Type or print name of witness

Type or print name of witness

Street address, city, state, zip code

Street address, city, state, zip code

By signing this form, I declare that I signed it in the presence of the other witness and the Declarant, and I witnessed the signing by the Declarant or by another person acting on his or her behalf.

Durable Power of Attorney for Health Care Decisions

I (the "Principal") hereby designate _____, (type or print first and last name)

Of _____
(address, city, state, zip code)

as my "attorney-in-fact" and give to my attorney-in-fact the power to make healthcare decisions for me. This power exists only when I am unable, in the judgment of my attending physician, to make those healthcare decisions. The attorney-in-fact must act consistently with my desires as stated in this document or otherwise made known.

Except as otherwise specified in this document, this document gives my attorney-in-fact the power, where otherwise consistent with Iowa laws, to consent to my physician not giving healthcare or stopping healthcare that is necessary to keep me alive.

This document gives my attorney-in-fact power to make healthcare decisions on my behalf, including to consent, to refuse to consent, or to withdraw consent to the provision of any care, treatment, service, or procedure to maintain, diagnose, or treat a physical or mental condition. This power is subject to any statement of my desires and any limitations included in this document. My attorney-in-fact has the right to examine my medical records and consent to disclosure of such records.

Note: The Principal does not have to give any specific instructions or statement of desires, but may do so. Insert here specific instructions or state of desires of Principal, if any.

Note: The Principal may designate one or more alternates as attorney-in-fact, but does not have to.

If the designated above is unable, unwilling or unavailable to act as my attorney-in-fact,

I designate _____, (type of print name first and last name)

Of _____
(address, city, state, zip code)

To serve as my attorney-in-fact.

Form Continued on Next Page

Final Disposition Declaration

Yes ___ No ___ I hereby designate my agent as my designee under the Iowa Final Disposition Act. My designee shall have the sole responsibility for making decisions concerning the final disposition of my remains and ceremonies to be performed after my death. This final disposition declaration hereby revokes all prior final disposition declarations. This designation becomes effective upon my death. My designee shall act in a manner that is reasonable under the circumstances. I may revoke or amend this final disposition declaration at any time. I agree that a third party (such as a funeral or cremation establishment, funeral director, or cemetery) who receives a copy of this final disposition declaration may act in reliance on it. Revocation of this final disposition declaration is not effective as to a third party until the third party receives notice of the revocation. My estate shall indemnify my designee and any third party for costs incurred by them or claims arising against them because of their good faith reliance on this declaration.

Signed this _____ day of _____ (month), _____ (year)

Signature of Principal (person granting the power of attorney)

Type or print name of Principal

Address (street, city, state, zip code)

This Power of Attorney must be witnessed by two persons or notarized.

STATE OF IOWA, COUNTY OF _____

This record was acknowledged before me on _____,

by _____

Signature of Notary Public _____

By signing this form, I declare that I signed this form in the presence of the other witness and the Principal, and I witness the signing by the Principal or other person acting on his or her behalf or direction.

Witness No. 1

Witness No. 2

Signature

Signature

Type or print name of witness

Type or print name of witness

Street address, city, state, zip code

Street address, city, state, zip code



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ATENCIÓN: si habla español, tiene a su disposición servicios gratuitos de asistencia lingüística. Llame al: 1-515-282-8269, extensión 19. AUFMERKSAMKEIT: Wenn Sie Deutsch sprechen, stehen Ihnen kostenlos sprachliche Hilfsdienstleistungen zur Verfügung. Rufnummer: 1-515-282-8269, erweiterung 19.