

Advanced Directives

# Advanced Directives

HARRISON  
COUNTY  
HOSPITAL

An affiliate of



NORTON HEALTHCARE



Advances in healthcare technology provide more opportunities than ever for prolonging patients' lives. ***As these options for life-prolonging treatment increase, so do your choices.***

As an adult, you have a right to make your own healthcare decisions. This right includes defining your wishes regarding life-prolonging treatment and artificial nutrition (food), hydration (water and fluids) and choosing who will make healthcare decisions for you, if you are unable to do so. By putting your choices in writing, you'll ensure your wishes are followed in the event you are unable to communicate or make these decisions. Unless you make your wishes known, your healthcare decisions will be made by someone else, if you become unable to consent to or refuse medical treatments. In Indiana, these decisions may be made by whomever your doctor talks to in your immediate family (meaning your spouse, parent, adult child, brother or sister) or by a person appointed by a court.

## **Advance Directives**

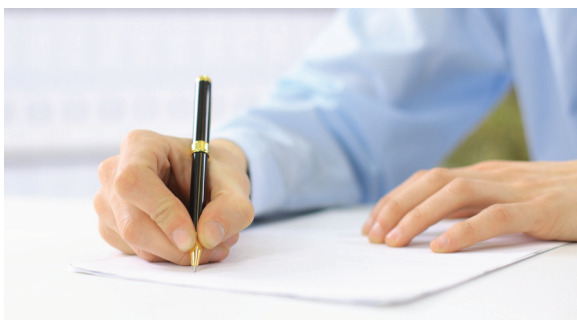
In Indiana, you can make and write down your own decisions about your future medical treatment, if you wish. Or you can appoint a person to make these decisions for you when you are not able to do so. You can even disqualify someone you don't want to make healthcare decisions for you. You can do these things by having what is called an advance directive. Advance directives are documents you can complete to protect your rights to determine your medical treatment and help your family and doctor understand your wishes about your healthcare.

Your advance directive will not take away your right to continue to decide for yourself what you want. This is true even under the most serious medical conditions. Your advance directive will

speaking for you only when you are unable to speak for yourself, or when your doctor determines that you are no longer able to understand enough to make your own treatment decisions.

**There are three ways you can make your wishes known now**, before you get too sick to tell what treatment you want or don't want:

1. You can speak directly to your doctor and your family.
2. You can appoint someone to speak or decide for you.
3. You can write some specific medical instructions.



You don't have to write down what you want, but writing it down makes it clear, and sometimes writing it down is necessary to make it legal. When you are no longer able to speak for yourself, Indiana law pays special attention to what you have written in your advance directive about your healthcare wishes and whom you appointed to carry them out.

Doctors, healthcare facilities and providers cannot require you to sign an advance directive as a condition of obtaining service. But if you do make an advance directive, you should provide a copy to your physician, close family members, or others who are likely to help you obtain care if you have a terminal condition or are permanently unconscious. Remember, it is your responsibility to tell your doctor about your advance directive. You also should take your advance directive with you each time you enter a hospital, nursing home or other healthcare facility for treatment.

The advance directive you use depends on what you want to do. If you want to put your wishes in writing, there are three

Indiana laws that are important- the Health Care Consent Act, the Living Will Act, and the Powers of Attorney Act. These laws may be used singularly or in combination with each other. These laws are complicated.

**It is always wise to talk to a lawyer if you have specific questions about your legal choices.**

## Indiana Health Care Consent Act and Your Health Care Representative

The Indiana Health Care Consent Act is found in the Indiana Code at IC 16-8-12. This law lets you appoint someone to say yes or no to your medical treatments when you are no longer able. This person is called your healthcare representative, and he or she may consent to or refuse medical treatment for you in certain circumstances that you can spell out. To appoint a healthcare representative, you must put it in writing, sign it, and have it witnessed by another adult.

Because these are serious decisions, your healthcare representative must make them in your best interest. In Indiana, courts have already made it clear that decisions made for you by your healthcare representative should be honored. These decisions can determine which medical treatments you will or will not receive when you are unable to express your wishes. If you choose, in certain circumstances and in consultation with your doctor, your healthcare representative may even decide whether or not food and water should be artificially provided as part of your medical treatment.

## Indiana Living Will Act and Your Life-Prolonging Procedures Declaration or Living Will Declaration

The Indiana Living Will Act is found in the Indiana Code at IC 16-8-11. This law lets you write one of two kinds of legal documents for use when you have a terminal condition and

are unable to give medical instructions. The first, the Living Will Declaration, can be used if you want to tell your doctor and family that certain life-prolonging medical treatments should not be used, so that you can be allowed to die naturally from your condition. The second of these documents, the Life-Prolonging Procedures Declaration, can be used if you want all possible life-prolonging medical treatments used to extend your life.

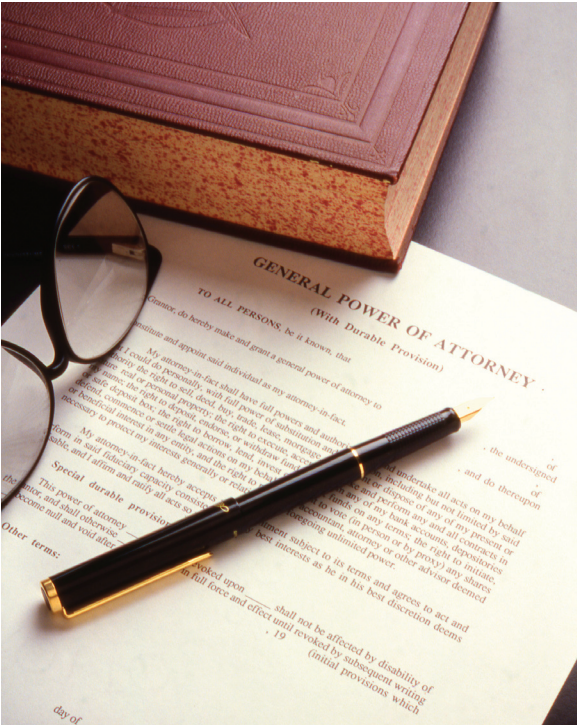
For either of these documents to be effective, there must be two adult witnesses and the document must be in writing and signed by you or someone that you direct to sign in your presence. Both a Living Will Declaration and a Life-Prolonging Procedures Declaration can be cancelled orally, in writing, or by canceling or destroying the declaration yourself. The cancellation is effective only when your doctor is informed.

## Indiana Powers of Attorney Act and Your Attorney in Fact

The Indiana Powers of Attorney Act is found in the Indiana Code at IC 30-5. This law spells out how you can give someone the power to act for you in specific situations, including healthcare. You do this by giving this person your power of attorney to do certain things you want this person to do. This person should be someone that you trust. He or she does not have to be an attorney, even though a legal term for this person you appoint is attorney in fact. The person you name as your attorney in fact is given the power to act for you in only the ways that you specify.

Your power of attorney must be in writing and signed in the presence of a notary public. It must spell out who you want as your attorney in fact and exactly what powers you want to give the person who will be your attorney in fact, and what powers you don't want to give. Since your attorney in fact is not required to act for you, you may wish to consult with this person before making the appointment.

If you wish, your power of attorney document may appoint the person of your choice to consent to or refuse healthcare for you. This can be done by making this person your healthcare representative under the Health Care Consent Act, or by referring to the Living Will Act in your power of attorney document. You can also let this person have general power over your healthcare. This would let him or her sign contracts for you, admit or release you from hospitals or other places, look at or get copies of your medical records, and do a number of other things in your name. You can cancel a power of attorney at any time, but only by signing a written cancellation and having this actually delivered to your attorney in fact.



Your decision about Advance Directives is a personal one which should be made only after careful thought. If you are considering a living will declaration or power of attorney, you may want to discuss your concerns with a family member, close friend, clergy or your physician. If you have any questions about legal validity of your advance directive, you should consult an attorney.

## Questions & Answers about Advance Directives

**Q. *After I execute an advance directive or power of attorney, where should I keep it and who should be informed?***

**A.** Keep your advance directive in a safe place where it can be easily found in case of an emergency. Current copies should be given to your physician, surrogate or attorney in fact, spouse or trusted family member, attorney and healthcare providers upon admission to the facility (hospital or nursing facility). You might want to keep a small card in your wallet which states that you have an advance directive and where it is located or who your attorney in fact is, if you have named one.

**Q. *May I change or cancel an advance directive or power of attorney?***

**A.** Yes. These documents may be changed or cancelled at any time. Keep a list of people who have copies. If you wish to change or cancel your advance directive, you must be sure to replace all outdated documents.

**Q. *Can an individual appointed under a healthcare representative designation or power of attorney make decisions contrary to my express wishes?***

**A.** No. The representative or attorney in fact must follow your wishes and consider the recommendations of your physician.

**Q. *Who should be my representative or attorney in fact?***

**A.** You should choose the person who knows you best and in whom you have confidence to carry out your healthcare decisions if you become incompetent. This may be a spouse, child, friend or anyone else you choose to name. Consider where the person lives and whether that person can be present when decisions need to be made for you. You also may choose to name an alternative representative or attorney in fact in the event your first choice is unavailable to act for you.



**Q. *What if I make an advance directive in Indiana and I am hospitalized in a different state, or vice versa?***

**A.** The law on honoring an advance directive in or from another state is unclear. Because an advance directive tells your wishes regarding medical care, it may be honored wherever you are, if it is made known. If you spend a great deal of time in more than one state, you may wish to consider having your advance directive meet the laws of those states, as much as possible.

**This brochure is intended for informational purposes only and should not be considered legal advice. Harrison County Hospital takes no position on advance directives or whether or not an individual should create an advance directive or power of attorney.**

## **Glossary of Terms**

### **Advance Directive**

A written document by a competent adult expressing preferences and instructions about healthcare in the event the individual becomes incompetent, unable to communicate or loses decision-making abilities. Advance directives include living will declarations, which set forth healthcare surrogate designations, and powers of attorney.

### **Artificial nutrition (food) and hydration (water & fluids)**

Food, water or other fluids that are artificially administered.

### **Attorney in fact**

The person named to serve under a power of attorney to make medical, financial or personal decisions for someone who is unable to do so.

### **Healthcare representative**

A person designated to make healthcare decisions for another individual if he or she is unable to make or communicate these decisions. A representative has the power to ask for or refuse medical treatment on the patient's behalf.

## Healthcare representative designation

That part of the living will declaration that designates a representative to make medical decisions for someone who is unable to do so. The representative may make decisions to continue, withhold or withdraw any life-prolonging treatments, when the diagnosis is terminal and death is certain or when the patient is in a permanently unconscious state. The representative also may make medical decisions in any healthcare crisis in which the patient is unable to do so.

## Life-prolonging treatment

Any unnatural means or machine used for medical treatment that is not intended to help the patient recover but instead prolongs the dying process.

## Living will declaration

A written healthcare representative designation and a written declaration of a person's wishes to refuse life-prolonging treatment, including artificial nutrition and hydration, in the event of a terminal condition or permanent unconsciousness.

## Permanently unconscious (or persistent vegetative state)

A condition which is characterized by the absence of cerebral cortical functions indicative of consciousness or behavioral interaction.

## Power of Attorney

A document designating an attorney in fact to make medical, financial or person decisions for someone who is unable to do so. The power of attorney may include specific instructions on any type of life-prolonging treatment, allowing the attorney in fact to ask for or refuse medical treatment on the patient's behalf.

## Terminal condition

A condition which is incurable, irreversible and will result in death within a relatively short time.

# Living Will Declaration

Declaration made this \_\_\_\_\_ day of \_\_\_\_\_ (month, year).

I, \_\_\_\_\_,  
being at least eighteen (18) years old and of sound mind, willfully and voluntarily make known my desires that my dying shall not be artificially prolonged under the circumstances set forth below, and I declare:

*If at any time I have an incurable injury, disease, or illness certified in writing to be a terminal condition by my attending physician, and my attending physician has determined that my death will occur in a short period of time, and the use of life-prolonging procedures would serve only to artificially prolong the dying process, I direct that such procedures be withheld or withdrawn, and that I be permitted to die naturally with only the performance of any medical procedure necessary to provide me with comfort care or to alleviate pain.*

\_\_\_ *I wish to receive artificially supplied nutrition and hydration even if the effort to sustain life is futile or excessively burdensome to me.*

\_\_\_ *I do not wish to receive artificially supplied nutrition and hydration if the effort to sustain life is futile or excessively burdensome to me.*

\_\_\_ *I intentionally make no decision concerning artificially supplied nutrition and hydration, leaving this decision to my healthcare representative or my attorney in fact with healthcare powers.*

Other instructions: \_\_\_\_\_

*In the absence of my ability to give directions regarding the use of life-prolonging procedures, it is my intention that this declaration 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 of the refusal. I understand the full impact of this declaration.*

Signed \_\_\_\_\_

\_\_\_\_\_  
(City, County, State of residence)

*The declarant has been personally known to me, and I believe him/her to be of sound mind. I did not sign the declarant's signature above for or at the direction of the declarant. I am not a parent, spouse, or child of the declarant. I am not entitled to any part of the declarant's estate or directly financially responsible for the declarant's medical care. I am competent and at least eighteen (18) years old.*

Witness: \_\_\_\_\_ Date: \_\_\_\_\_

Witness: \_\_\_\_\_ Date: \_\_\_\_\_

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## *Just remember...*

*You have the right to control what medical treatment you will receive.*

*Even without a lawyer or a form, you can always tell your doctor and your family what medical treatments you want or don't want. No one can discriminate against you for signing, or not signing, an advance directive.*

*Using an advance directive is, however, your way to control your future medical treatment.*

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Harrison County Hospital  
1141 Hospital Drive NW  
Corydon, IN 47112  
(812) 738-4251



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