

Advance Medical Directives

Every adult has the legal right to consent to or refuse medical treatment. Advance medical directives are legal documents that state your wishes about your medical care when you are not able to communicate yourself.

In Colorado there are two common advance medical directives:

- A Medical/Health Care Power of Attorney
- A Declaration as to Medical or Surgical Treatment (sometimes called a “living will”)

An advance medical directive does not take away your right to make medical decisions if you are able to do so. It allows your beliefs and decisions to be carried out even when you cannot communicate them.

If you become incapacitated and you do not have any advance medical directives, your loved ones may have to go to court and pursue a guardianship to have the authority to make medical decisions for you.

While you are encouraged to work with an attorney to execute advance medical directives, forms are available at most office supply stores or by searching the internet. If you choose to use a form, make sure it is a Colorado form as the requirements for advance medical directives are specific to each state.

Medical Durable Power of Attorney

A Medical Durable Power of Attorney identifies the person who will make medical decisions for you when you cannot make them for yourself. This person is known as the “agent,” and they can make any medical decisions you could make for yourself, if you were able to do so.

Your medical power of attorney may grant your agent very broad authority or limit their authority. The document may include directions and guidance as to your wishes and beliefs. You may name alternate or successor agents. A medical power of attorney can be revoked at any time.

A medical power of attorney should include a statement giving medical professionals permission to release information to your agent even before it is determined you cannot make decisions for yourself. This provision allows the agent to communicate with the medical professionals to determine whether you are incapacitated.

Declaration as to Medical or Surgical Treatment

In Colorado, individuals may execute a “Declaration as to Medical or Surgical Treatment,” sometimes referred to as a “Living Will.” This Declaration covers the type of life-sustaining procedures you want when you have a terminal condition or are in a persistent vegetative state. In these very

limited circumstances, statements you make in a properly executed Declaration as to Medical or Surgical Treatment govern your treating physician’s course of action regarding artificial nutrition, artificial hydration, and the administration, removal, or refusal of life-sustaining procedures.

Under Colorado law, a “life-sustaining procedure” is any medical procedure that only serves to prolong the dying process, including CPR, defibrillation, medications, and surgery.

A Declaration as to Medical or Surgical Treatment may also include declarations regarding your wishes as to your treatment if you are in a persistent vegetative state.

Regardless of your decision to accept or reject life-sustaining treatment, medical professionals will continue to provide all necessary treatment to alleviate pain and suffering.

A Declaration as to Medical or Surgical Treatment may be revoked or amended at any time.

Other common documents and situations

CPR Orders/Do not Resuscitate Orders

CPR treatments are medical procedures that attempt to restore cardiac function or support breathing, including chest compressions, electric shocks, and breathing tubes. You must get a CPR directive from your doctor’s office or the Colorado Department of Health, and your doctor must sign it after a consultation. If you have a CPR directive, you should place it prominently in your home (on the front door or refrigerator) so that emergency medical personnel can find it easily and carry out your wishes. In addition, you may receive an id bracelet, that indicates you do not want CPR administered.

Disposition of Last Remains Declarations

You have the right and power to direct the disposition of your last remains. Colorado law provides protection from individuals who may try to impose their views over your stated wishes.

The declaration may cover disposition (cremation, burial, entombment) and ceremonial instructions, and must be signed and dated by you. If you do not make a declaration, your Personal Representative, spouse, designated beneficiary, adult children, parents, guardian, conservator or majority of adult siblings, can make the decision for you. If none of the above individuals are available, then any person willing to pay gets to decide for you.

Organ and Tissue Donation Declarations

You may make a declaration regarding organ and tissue donation in a stand-alone document, Declaration as to Medical

or Surgical Treatment, or on your driver's license. You may give specific direction as to who should benefit from the donation and may even give certain individuals, such as family members a preference. If you do not make a declaration, your agent, spouse, adult children, parents, adult siblings, adult grandchildren, grandparents, caregiver, or your guardian, if applicable gets to decide to make an organ and/or tissue donation.

Proxy Decision Maker for Medical Treatment

If you do not make any advance medical directives, Colorado law allows health care providers to rely on a proxy decision maker chosen by "interested persons" to make decisions for an incapacitated patient. In general, medical professionals will attempt to locate as many interested persons as practicable. Often this includes parents, children, grandchildren, and close friends.

In order for a proxy decision maker to have authority to make medical decisions, the patient's attending physician must determine that the patient lacks the ability to provide informed consent to or refusal of medical treatment. Medical professionals must try to tell the patient that he or she lacks the ability to provide informed consent and that a close relative or friend will be selected to make medical decisions for them.

Frequently Asked Questions

Where should I store my advance directives?

You should keep the directives somewhere that is easily accessible and you should inform your loved ones where to find them. It is not a good idea to place the documents in a safe deposit box at a bank, as on weekends, holidays, and nights, the documents would not be available for use.

Should I talk with my family and friends about my documents?

Yes. When it comes to end of life and medical treatment issues, communication with family members and close friends is the key to ensuring your wishes are followed. Take the time

to discuss these issues with your family, close friends, and medical professionals so that they understand your values. The documents do not cover every possible scenario.

How do I convey my values in my advance directives?

Your advance medical directive(s) should include statements about your values and any religious beliefs that would either prohibit or require certain types of medical care.

How do I inform my doctors and other medical professionals about my documents?

You should provide either a physical or an electronic copy of your documents to your primary care doctors and specialists. Take the documents along to your next visit or upload the documents to the medical records portal used by your health care providers.

I just moved to a different state.

Are my advance directives still valid?

If your advance medical directives comply with the state law where the directives were executed, they will likely be recognized and honored in all other states. If you have any questions about whether the directives are valid, consult an attorney.

What if I spend part of the year in another state?

If you spend a significant amount of time in more than one state, such as having a vacation or winter home in another state, you should execute documents in both states in case there are different requirements. It is very important to make sure all your declarations are consistent to avoid any confusion or disputes.

What do I do if I change or revoke my advance directives?

If you revoke or amend any of your advance directives, it is very important that you provide your doctor, family, and anyone else with the most current versions so they are aware of your wishes.

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