

Decisions



*A guide to
advance
directives and
other health
care choices*



Our best care. Your best health.™

Introduction

Washington and federal law give every competent adult, 18 years or older, the right to make their own health care decisions, including the right to decide what medical care or treatment to accept, reject or discontinue. If you do not want to receive certain types of treatment or you wish to name someone to make health care decisions for you, you have the right to make these desires known to your doctor, hospital and other health care providers.

CHI Franciscan Health wants to make these difficult issues easier for you to understand and deal with. This booklet is intended to help you learn more about your rights to inform health care providers about medical care and treatment you want, or do not want, and about your right to select another person to make these decisions for you, if you are physically or mentally unable to make them yourself. Because this is an important matter, we urge you to talk to your spouse, family, close friends, personal advisor, your doctor and your attorney before deciding whether you want an advance directive.

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Living Will Form/DPAHC Form *inserts at back*

What Are Advance Directives?

Advance directives are documents that state your choices about medical treatment or name someone to make decisions about your medical treatment if you are unable to make these decisions or choices yourself. These documents let your family and doctors know what medical treatment you **do** and **do not** want if you are unable to make the decision because of an accident, illness or mental incapacity.

There are three main types of advance directives in Washington:

A Health Care Directive (“Living Will”)

A Living Will is a set of written instructions that explains your wishes for medical care if you become unable to do so.

A Durable Power of Attorney for Health Care

A Durable Power of Attorney for Health Care lets you name a person (called an “agent”) to make your medical decisions if you are unable to do so.

A Mental Health Advance Directive

A Mental Health Advance Directive is a set of written instructions that explains your wishes for mental health care if you become unable to do so. It also lets you name a person (called an “agent”) to make your mental health care decisions if you are unable to do so.

What happens if I don't have advance directives?

Whether or not to establish advance directives is your own decision. However, to ensure you receive the level of treatment you prefer, advance directives will help you communicate those wishes to your medical team. You will receive medical care regardless of whether you have advance directives or not.

If you are unable to communicate your wishes and you do not have any advance directives, your doctor or other health care providers will look to the following people in the order listed for decisions about your care:

- Your court-appointed guardian who is authorized to make health care decisions for you.
- A person to whom you have given a durable power of attorney that includes health care decision-making. This might be your spouse; adult children; either of your parents; or adult siblings.

If there is more than one person in the highest available priority group, such as several adult children but no spouse, all reasonably available persons in that group must agree with the treatment or non-treatment decisions. The family member must try to do what you would want done. If they do not know, they must do what they think is in your best interest. In an emergency, if you are unable to give your informed consent and have not made an advance directive, and the treatment is life-saving or life-sustaining, your consent is implied.

When do advance directives go into effect?

It is important to remember that these directives take effect only when you can no longer make your own health care decisions. As long as you are able to give “informed consent,” your health care providers will rely on **YOU** and **NOT** on your advance directives.

What is “informed consent”?

Informed consent is a process of communication between you and your doctor. It is your right to make decisions about what care or treatment is to be done to your body. The law requires that doctors and/or nurses explain:

- Your medical condition
- The purpose of the treatment
- What the treatment will do for your condition
- What could or will happen if you choose not to have the treatment
- The possible serious risks of the treatment and
- Other possible treatments that you could choose, as well as the risks and benefits of other treatments

Only after you know about the treatment can you say you want it (informed consent) or that you don’t want it (informed refusal). Prior to making the decisions, you have the right to discuss the treatment with your family, a different doctor, a close friend, clergy, a family lawyer or anyone with whom you feel comfortable.

How will health care providers know if I have advance directives?

Hospitals, nursing homes, home health agencies, HMOs and all other health care facilities that accept federal funds must ask if you have an advance directive and, if so, they must see that it is made part of your medical records.

Can I change my mind after I write an advance directive?

Yes, at any time you can cancel or change any advance directive that you have written. To cancel your directive, simply destroy the original document and tell your family, friends, doctor and anyone else who has copies that you have canceled them. To change your advance directives, simply write and date a new one. Again, give copies of your new document to all appropriate parties, including your doctor. It's a good idea to review your advance directives every five years.

What should I do with my advance directives?

You should keep them in a safe place where your family members can get to them. Do **NOT** keep the original copies in your safe deposit box. Give copies of these documents to as many of the following people as you are comfortable with: your spouse and other family members; your doctor; your lawyer; your clergyperson; and any local hospital or nursing home where you may be residing. Another idea is to keep a small wallet card in your purse or wallet which states that you have an advance directive, and who should be contacted. Wallet cards are provided for you at the back of this booklet for this purpose.

Improve your medical vocabulary

- **Terminal Illness/Terminal Condition:** A condition in which the patient is expected to die within a short period of time (less than a year)
- **Persistent Vegetative State:** A permanent coma
- **Irreversible Brain Damage or Disease:** Permanent changes that affect a person’s ability to think and communicate
- **Life-Prolonging Measures:** Any treatment or procedure to extend life, which includes:
 - **Artificial Nutrition and Hydration** (also called “total parenteral nutrition”)—delivers food and water through a tube
 - **Respirators/Ventilators**—machines to keep patients breathing
- **Dialysis:** Use of a special machine to clean blood when kidneys are not working properly
- **Palliative Care:** Measures to relieve pain and suffering, but not to cure
- **Cardiopulmonary Resuscitation (CPR):** Procedures to restore stopped breathing and heartbeat
- **Do Not Resuscitate (DNR) Orders:** An order to prevent CPR from being performed

Consider your values

Make sure your advance directives reflect the values you live by.

What's most important to you?

For example, reflect on your:

- Moral and religious beliefs
- Feelings about making your own decisions and about having family, friends and others make them
- Feelings about death and dying, pain and suffering
- Beliefs about quality of life
- Wishes for organ/tissue donation

Health Care Directive (Living Will)

A **Health Care Directive** (also known as a “Living Will”) is a document that allows you to tell your doctor that you do not want your life artificially sustained when you have been diagnosed in writing by your attending physician to have a terminal condition or diagnosed in writing by two physicians that you are in a permanent unconscious condition. This means that any life-sustaining treatment would only prolong the process of dying from an incurable and irreversible condition.

To be valid, a Living Will must be dated and signed in the presence of two adult witnesses who must also sign. The two witnesses cannot be (at the time of signing):

- Related to you by blood or marriage
- Entitled to inherit your money or property if you die
- People to whom you owe money
- Your doctor or employees of your doctor
- An employee of a health care facility at which you are a patient or resident

What if I change my mind?

A Health Care Directive (Living Will) may be “added to” or “deleted from” by you any time. Under Washington law, you can cancel or revoke your Living Will. The cancellation is effective only when you or someone you have instructed

to do so tells your attending doctor. The Living Will can be canceled by:

- Destroying it or having someone else do so in your presence
- A written cancellation that you have signed and dated
- A verbal agreement (either yourself or someone you have instructed) with your doctor that you wish to cancel it

When does a Washington Living Will go into effect?

A Washington Living Will goes into effect when: 1) your doctor has a copy of it, 2) your doctor has concluded that you are no longer able to make your own health care decisions, and 3) your doctor has determined that you are terminally ill or your doctor and another doctor have determined that you are permanently unconscious.

Is a Living Will the same as a “Do Not Resuscitate (DNR)” order?

No. A Washington Living Will covers almost all types of life-sustaining treatments and procedures. A “Do Not Resuscitate” order covers two types of life-threatening situations. A DNR order is a document prepared by your doctor at your direction and is placed in your medical records. It states that if you suffer cardiac arrest (your heart stops beating) or respiratory arrest (you stop breathing), your health care providers are not to try to revive you by any means.

Will I receive medication for pain?

Unless you state otherwise in the Living Will, medication for pain will be provided where appropriate to make you comfortable and will not be discontinued.

Does a Washington Living Will apply if a woman is pregnant?

No. Like most states, Washington does not permit life-prolonging measures to be refused or stopped if there is a chance that the fetus would be born alive.

Where should I keep my Living Will?

You and your family should agree on a place to keep your original Living Will. Copies should be given to your agent(s) for power of attorney for health care, family or trusted friend, and your doctor. **If you are being admitted to the hospital, you should take a copy with you.**

Durable Power of Attorney for Health Care

A Durable Power of Attorney for Health Care (DPAHC) is a legal document that identifies who you want to make health care decisions for you if you are unable to make your own. The person you choose is called your “agent” or sometimes called “the attorney in fact” although the person does not have to be a lawyer.

You can appoint almost any adult to be your agent and should select a person who is knowledgeable about your wishes, values, religious beliefs, in whom you have trust and confidence and who knows how you feel about health care. Talk with this person before completing any written forms to make sure they understand and agree to accept the responsibility. Members of your family, such as your spouse, child, brother or sister, or even a close friend are usually good choices to be your agent.

The following cannot be appointed as your agent, unless he/she is your spouse, adult child or adult brother or sister: 1) Your attending physician(s); 2) an employee of your attending physician; or 3) the owner, operator or employee of any health care facility in which you are a patient or are receiving care.

When does the DPAHC take effect?

You can have a DPAHC go into effect right after you sign it, or you can have it take effect only when (or if) you are mentally incapacitated. It is important to be specific.

Are there any decisions my agent cannot make?

Yes. Washington law specifically prohibits your agent from consenting to: 1) Procedures that induce convulsions; 2) psychosurgery; 3) amputation; or 4) certain types of mental health and psychiatric procedures.

Can there be more than one agent?

Yes. While you are not required to do so, you may designate alternates who may also act for you, if your primary agent is unavailable, unable or unwilling to act. Your alternates have the same decision-making powers as the primary agent.

Does the DPAHC have to be signed?

Yes, you must sign the DPAHC but you do not need witnesses. However, witnesses can be important since they “witness” that you are mentally competent when you sign the document. You may want to have the DPAHC notarized because some health care providers require it be notarized. However, Washington state law does not require this.

Mental Health Advance Directive

A **Mental Health Advance Directive (MHAD)** is much like a Living Will for health care. A person with or without a mental illness can specify how treatment decisions should be made if the person becomes unable to make sound choices due to mental illness. Under Washington law, you may create a directive that gives someone else the legal authority to make mental health decisions for you if you are unable to make sound decisions. You can say what types of decisions you want made for you and even what those decisions should be. The person you choose to make the decisions is called an agent. You can also write down instructions about the treatment you wish to receive. For instance, the directive can say what medication you do or do not want and why, or describe the ways to calm you when you are upset. You can have a directive that only appoints an agent or one that only provides instructions about treatment, or a directive that does both.

When does a Mental Health Advance Directive apply?

A MHAD goes into effect only if a person becomes “incapacitated,” according to Washington law. When a person is not incapacitated, that person can make decisions about mental health treatment at that time without the help of an agent or prior instructions. A person with a directive can choose in advance whether or not he or she

can change or cancel the instructions in the directive if he or she becomes incapacitated. If a person with a directive chooses to not be able to change or cancel the directive on becoming incapacitated, that person may receive treatment based on the directive even if the person says he or she does not want to be treated at the time.

What does incapacitated mean?

“Incapacitated” is a legal term that generally means a person cannot make sound decisions about his or her care or treatment. Before a person can be declared incapacitated, certain health care providers or a court of law must examine the person and decide whether he or she understands the information that is needed to make decisions regarding his or her health care. If it is determined that the person is incapacitated, then the Mental Health Advance Directive will apply.

Who can I appoint to make mental health decisions for me?

The following cannot be appointed as your agent, unless he/she is your spouse, adult child or adult brother or sister:

- 1) Your attending physician(s);
- 2) An employee of your attending physician; or
- 3) The owner, operator or employee of any health care facility in which you are a patient or are receiving care.

Do hospitals require that I have a mental health advance directive?

No, but hospital staff must ask if you have one. If you do have one, the hospital must write this information in your chart. A hospital cannot discriminate against a patient based on whether or not the patient has a directive.

Can I change my Mental Health Advance Directive?

The best way to change your MHAD is to cancel or revoke it. To cancel or remove your directive, you must make a written statement indicating that you want to cancel or revoke the directive and sign it. You or your agent must give copies of the statement canceling or revoking your directive to everyone who got copies of your original directive. You may be able to cancel or revoke your directive only when you have capacity, unless you chose in the directive to be able to cancel or revoke the directive when you do not have capacity. If you change your directive and make a new directive, you should give new copies to your family, doctor, attorney, agent and others who might need a copy. Your health care provider must know about the change or it will not be effective.

Where should I keep my Mental Health Advance Directive?

You and your family should agree on a place to keep your original Mental Health Advance Directive. Copies should be given to your family members, doctor, attorney and anyone you have appointed as an agent to make decisions for you

if you become incapacitated. **If you are being admitted to the hospital, you should take a copy with you.**

Will hospitals and my doctor honor my Mental Health Advance Directive?

Hospitals and doctors support patients' rights to make decisions about their mental health care. They will honor Mental Health Advance Directives that meet state law requirements, medical and ethical practice standards, and policies and procedures of the hospital. Hospitals and doctors must tell you their policies on directives and whether they know of any conflict between your directive and their policies. If there is a conflict, you or your agent will have to decide whether to continue treatment even though it may not follow your directive's instructions. If the hospital or doctor cannot follow part of the directive, the rest of the directive is still valid.

What if I have a Living Will or Durable Power of Attorney for Health Care?

If you already have a Living Will and/or DPAHC that applies to medical decisions, you should review what it says. The Living Will and DPAHC will be in effect except where they conflict with what your MHAD says. To avoid confusion, you may want to consider having only one person be your agent to make decisions for both mental health and medical care. You may also want an attorney to review how the documents fit together.

How do I prepare a Mental Health Advance Directive?

You may want to involve your health care provider and/or attorney in making a directive. If you think a directive would be a useful planning tool, contact one of the following agencies. They can assist you in finding a lawyer who will help you write a directive, in some cases for little or no fee.

- Washington Protection and Advocacy System
(206) 324-1521 or 1 (800) 562-2702
- Northwest Justice Project Low-income non-King County clients
1 (888) 201-1014
- King County Bar Association
Attorneys for low-income clients
(206) 340-2593
- Lawyer referral for all other clients
(206) 623-2551

Other Considerations

Organ donation

Organ donation is another important topic to consider. Nearly everyone can be an organ or tissue donor. Organ donation is consistent with the principles of most religious and ethnic systems. During organ donation, the body is treated with respect and dignity. Funerals need not be delayed. All costs related to organ or tissue donation are covered by the procurement agency. The family is never responsible for these costs.

Please discuss this with your doctor or other health care provider. If you choose to be an organ donor, our hospital will provide you with the proper forms. You can also learn more about organ donation by calling toll-free to the LifeCenter Northwest Donor Network at 1 (877) 275-5269. The website address is www.lcnw.org.

Washington State Death with Dignity Act

The Washington State Death with Dignity Act became law March 4, 2009. The law affects terminally ill, competent adult Washington state residents who are medically predicted to die within six months and will allow individuals meeting these criteria to request and self-administer lethal medication prescribed by a physician. CHI Franciscan Health will not participate in, nor facilitate, physician aid in dying. At the same time, we will not abandon the dying person. Our focus has been, and will continue to be, on providing complete and compassionate care for terminally ill patients.

Our mission in life

CHI Franciscan Health is a family of hospitals, health care services and medical providers delivering compassionate care to people throughout the Puget Sound. Our mission centers on providing high quality care that meets our patients' medical needs while offering emotional and spiritual support to patients and their families. We believe this three-part approach—physical, emotional and spiritual—is essential to treating the whole person.

Consultation

These issues can be difficult to think about and to discuss with loved ones. Our hospital understands how hard this can be. In addition to your doctor, we have several people who can help you with these issues. Just show your nurse this pamphlet, and tell your nurse that you would like to talk with someone about this. A chaplain or social worker is also available.

Wallet cards for Washington Advance Directives

Cut out and complete the cards below. Put one card in the wallet or purse you carry most often, next to your driver's license or health insurance card. Keep the second one on your refrigerator, in your motor vehicle glove compartment, a spare wallet or purse, or other easy-to-find place.



Attn: Washington Health Care Providers

I have created the following Advance Directives: *(Check all that apply)*

- Health Care Directive (Living Will)
- Durable Power of Attorney for Health Care
- Mental Health Advance Directive

Please contact: _____
(name)

_____ *(address)*

_____ *(phone)* for more information.

_____ *(signature)* _____ *(date)*



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I have created the following Advance Directives: *(Check all that apply)*

- Health Care Directive (Living Will)
- Durable Power of Attorney for Health Care
- Mental Health Advance Directive

Please contact: _____
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