

Healthcare Directives Frequently Asked Questions

What is a healthcare directive?

A healthcare directive, also called a living will, sets forth an individual's wishes regarding future medical treatment and care. A healthcare directive takes effect when and if an individual becomes unable to communicate those wishes. Doctors and other medical staff are bound to honor and follow the instructions set forth in a healthcare directive.

What types of instructions are included in a healthcare directive?

A healthcare directive may specify the types of treatments that a patient is willing and unwilling to receive. The directive may instruct physicians to take all appropriate measures to ensure that a patient remains alive, or it may request that physicians refrain from prescribing life prolonging treatments should the patient become comatose or terminally ill.

What are the benefits of having a healthcare directive?

A healthcare directive allows patients to control the type of care and treatment they receive at the end of their lives. Without a healthcare directive, doctors may use their own discretion in making treatment decisions or they may defer to the judgment of a patient's spouse or close relatives. Relatives may disagree, however, about what is best for the patient. Having a healthcare directive relieves family members of the stress and responsibility of making these decisions, and reassures them that the patient is receiving the type of care that they would have chosen if they were able to communicate their wishes.

Is a healthcare directive irrevocable?

No. An individual may change or terminate their directive at any time before the directive takes effect. A directive may be revoked orally or in writing.

How do I establish a healthcare directive?

Requirements for establishing healthcare directives vary between states. Typically, however, healthcare directives may be created by any individual over the age of eighteen who has the capacity to understand the terms and implications of the directive. To become effective, a directive must follow state specific witnessing and notary requirements. Healthcare directives may be obtained without a fee at most hospitals and senior care centers. Individuals may wish to discuss healthcare options with their physician or their hospital's patient representative before drafting their healthcare directive. While an individual need not retain a lawyer to complete the directive, an experienced lawyer may ensure that the individual has considered all options and complied with all legal formalities.

In addition to creating a healthcare directive, should I appoint a durable power of attorney for healthcare?

A durable power of attorney for healthcare, also known as a healthcare proxy, gives a person the authority to make medical decisions for a patient who is unable to make such decisions themselves. The healthcare proxy may ensure that the patient's healthcare directive is followed, or the proxy may be given the discretion to make decisions for the patient. When a healthcare directive and a durable power of attorney are combined in one document, the document is referred to as an advance directive for healthcare.

Whom should I appoint as my durable power of attorney for healthcare?

An individual should consider a number of factors before appointing a healthcare proxy. First, a healthcare proxy must reside in the same state as the individual. Second, a healthcare proxy should be someone that the individual trusts fully and whom can be relied on to act in the individual's best interest. Finally, an individual must have confidence that the proxy will act competently under pressure and that the proxy is willing and able to make important decisions at critical times.