

This handout is intended for Assisted Living Facilities to keep on hand and share with residents, their families and caregivers, and your staff. It can also be used to hold educational events for residents, for staff, and for family councils. You may wish to review this document with your attorney and your supervisors.

INTRODUCTION TO HEALTH CARE PLANNING: Questions Often Asked, and their Answers

1. Question

WHAT ARE "ADVANCE DIRECTIVES"?

Answer

They are instructions you give about your future medical care. "Advance directives" is a term used by doctors, nurses, lawyers and hospitals to describe an entire category of documents. There are three types of advance directive documents in Colorado: medical durable powers of attorney, living wills and CPR directives. They go into effect when you become personally unable to decide and speak for yourself, and they each do different things. You may need different ones at different times, depending on your situation.

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2. Question

WHAT IS A "LIVING WILL," AND WHAT DOES IT DO?

Answer

A living will is an advance directive telling people to refrain from using artificial life support for you under certain specific conditions. Under Colorado law, a living will is limited to patients who have medically "terminal" diseases or conditions.

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2. **Question** (continued)

WHAT IS A "LIVING WILL," AND WHAT DOES IT DO?

Many serious and disabling events may not be considered "terminal" and are not covered by living wills. The only thing a living will can do is authorize your physician, if you are terminal, to "pull the plug." It only affects artificial life support, and it has no effect upon CPR, surgery or other medical treatment.

3. **Question**

WHAT IS A MEDICAL DURABLE POWER OF ATTORNEY AND WHAT DOES IT DO?

Answer

A medical durable power of attorney is an advance directive in which you name someone to be your "agent" (or "attorney in fact"), giving that person authority to make medical care decisions for you if you become incapacitated. Medical durable powers of attorney come in many different versions. Some are very short and general, and they do no more than appoint an agent. Other versions can be more personalized and more detailed about what you want. Complete medical durable powers of attorney serve as a "trail map" for your agent, your doctors and your family about your "quality of life" values.

A medical durable power of attorney is not:

- The same thing as a living will.
- A "laundry list" of horrible events and illnesses.
- Giving up your rights to make your own decisions.

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3. **Question** (continued)

WHAT IS A MEDICAL DURABLE POWER OF ATTORNEY AND WHAT DOES IT DO?

A medical durable power of attorney is:

- A way to help clarify your personal "quality of life" instructions and prevent family conflict about your medical treatment goals.
- A deputy's badge, naming someone you select to make decisions on your behalf.

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4. **Question**

WHAT'S THE DIFFERENCE BETWEEN A MEDICAL DURABLE POWER OF ATTORNEY AND A LIVING WILL?

Answer

A medical durable power of attorney is a broader and more flexible advance directive than a living will. It applies to any medical situation or treatment when you are unable to speak for yourself, even if you are not medically "terminal." A medical durable power of attorney gives you someone to act as your agent, which a living will does not do. The agent you name in your medical durable power of attorney makes medical decisions for you, weighing the factors involved and following your instructions.

Medical durable powers of attorney can cover many other subjects besides artificial life support. For example, you can include instructions to your agent about the place you live, organ donations, experimental drugs, and other items. Your agent can express your viewpoints and participate in decisions on your behalf anytime you become incapacitated.

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5. **Question**

ARE THERE DIFFERENT KINDS OF MEDICAL DURABLE POWERS OF ATTORNEY?

Answer

YES. There are two basic types of medical durable powers of attorney: "standing powers" and "springing powers." A "standing" version enables your agent to speak on your behalf without a formal finding that you have become incapacitated. A "springing" version makes your agent wait until you are unable to function, before the agent has any power. The right kind to use depends on a number of factors which you should think about before signing either kind of document.

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6. **Question**

WHAT SHOULD A MEDICAL DURABLE POWER OF ATTORNEY CONTAIN?

Answer

- The name of the person you appoint to act as your agent, and successors (if you want them.)
- A list of the powers you want your agent to have.
- Guidelines and instructions for your agent to follow, when making decisions on your behalf.
- Other legal provisions.

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7. **Question**

WHO SHOULD BE MY AGENT?

Answer

You can appoint any person "of sound mind" over 18 years of age to be your agent. Your agent does not have to be a member of your family, a Colorado resident, or a person with medical or legal training. Usually, only one person at a time serves to act as your agent, although you can appoint other persons to act as alternate agents in succession, if the first person you name as your agent is not available.

An agent from outside the immediate family is chosen sometimes to spare close relatives from emotional burdens, or avoid family conflict, or because a loved one "just couldn't handle it."

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8. **Question**

WHAT POWERS SHOULD I GIVE MY AGENT?

Answer

In my opinion, you should give your agent full but flexible authority, and a good picture of your personal wishes and goals concerning your health care. Your medical durable power of attorney should describe your beliefs about "quality of life" and the importance you assign to your mental and/or physical capabilities, your age, or other factors you want your agent to consider. You may wish to instruct your agent to decline treatment, chemotherapy or surgery under certain circumstances and ask for "comfort care" only, or you may wish to instruct your agent to ask the doctor to do everything possible to keep you alive in any condition. The advantage of a medical durable power of attorney is that you can leave any instructions you want to. Your medical durable power of attorney should reflect your personal beliefs, whatever they may be.

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10. Question

WHAT IS A CPR DIRECTIVE?

Answer

It is a way to let people know that you don't want cardiopulmonary resuscitation (CPR) to be attempted, if your heart or breathing stops. Although CPR may be able to restore your breathing, survivors sometimes suffer serious damage afterwards, especially if their brain was deprived of oxygen for too long, or if they were very sick or fragile.

It's a good idea to talk with your doctor about what CPR would mean for you, in your present health condition.

If you have a CPR directive, you can get a bracelet or necklace to wear with a special Health Department "No CPR" symbol.

A CPR directive will not prevent you from receiving other kinds of emergency medical treatment or pain relief; it only affects CPR.

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11. Question

WHERE CAN I GET A CPR DIRECTIVE IF I WANT ONE?

Answer

The Colorado Department of Public Health and Environment distributes official forms for CPR directives to licensed health care providers and facilities. Once you complete the paper form, you may purchase a CPR directive bracelet or necklace. Other "unofficial" forms of CPR directives are also legal, but in an emergency they may be unfamiliar to "911" teams. Before you sign a CPR directive, you should talk with your doctor about CPR and what it would mean in your own, personal medical condition.

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12. **Question**

WHAT IF I CHANGE MY MIND ABOUT MY ADVANCE DIRECTIVES?

Answer

You can change or revoke any of your advance directives at any time. If you do, however, you should notify your agent (if you have appointed one in a medical durable power of attorney), and you should also tell your doctor, family members, and other persons who may be involved in your health care.

Having an advance directive in writing does not prevent you from giving oral instructions, or from changing your mind or your viewpoints. What you say is still important.

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13. **Question**

WHAT HAPPENS IF I DON'T HAVE AN ADVANCE DIRECTIVE?

Answer

Under Colorado law, if you have no advance directives then your spouse, parents, adult children, adult grandchildren, adult siblings, and close friends are all on equal footing. Together they can try to decide among themselves who should act as your medical "proxy," and make decisions for you. The person chosen as your "proxy" must try to use your own individual values and preferences when taking action on your behalf, and not simply rely on what (s)he would do in that situation alone. If the "interested persons" cannot agree when selecting a proxy, then any of them can go to court to start a guardianship action and have a judge appoint someone to speak for you.

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14. **Question**

WHAT SHOULD I DO WITH MY ADVANCE DIRECTIVES?

Answer

The most important thing you can do with your living will, medical durable power of attorney, and/or CPR directive is to talk about them with your doctor and your loved ones, so they will know what you want. Your family and your doctor should also have copies. If you enter a hospital or nursing home, you will be asked for a copy of your advance directives. It's also a good idea to keep copies of them with you if you are traveling.

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