



Faulkton Area Medical Center

# Advance Directives Planning for Health Care Decisions

## A different conversation...

Most of us like to be in charge of our lives and the health care we receive. But if you are seriously ill or dying, you may not be able to speak for yourself and your family may be faced with difficult decisions. Talking with your family about your wishes and completing an advance directive will help. While starting the conversation can be difficult, discussing your wishes for care at end of life can provide comfort for you and direction for your loved ones. This discussion is for all adults, not just those who are elderly or have a progressive illness. Begin the discussion early, and make your wishes known.

## What are advance directives?

Advance directives are forms that outline the care you would like to receive - or not receive - if you are unable to speak for yourself. The three types of forms are Living Will, Durable Power of Attorney for Health Care and Comfort One.

These forms do not have to be completed by an attorney; however, they do need to be signed, witnessed and, possibly, notarized.

A Living Will directs what treatment to provide or withhold when you are terminally ill and death is imminent or if you are permanently unconscious. It only becomes effective when you are no longer able to speak for yourself.

A Durable Power of Attorney for Health Care appoints someone to speak for you when you are no longer able to direct your care. This could include an illness, accident or terminal condition. If you improve and are able to speak for yourself, then you resume the ability to direct your care.

Comfort One in South Dakota provides quick identification of patients who choose not to receive life-prolonging treatment (chest compressions, breathing tubes, shock and so on) by emergency personnel. Patients wear a special bracelet or have a document that states these requests and that the emergency team should only provide comfort measures. The Comfort One form must be signed by your physician, nurse practitioner or physician assistant. Emergency teams, such as EMS teams or ambulance crews, cannot honor advance directives unless a Comfort One form is in place. For more information on Comfort One, please go to [www.sdemta.org](http://www.sdemta.org)

## Think about this...

You have the right to decide what treatment you do and do not want at end of life.

If you do not communicate your wishes and are not able to speak for yourself, then others will make decisions about your care ... and it may not be what you want.

Without an advance directive your health care provider will turn to your family for decisions. They will start with your closest relatives, which may result in someone you would never select making decisions about your care.

**When making your advance directive, think about three possible situations:**

- If you have a sudden illness.
- If you have a severe accident.
- If you become terminally ill.

**In each of these situations, consider the following:**

- Do you want aggressive treatment?
- How long would you want treatment to continue if you were unconscious and not expected to recover - days, weeks, months?
- When would care and comfort, with an emphasis on pain management, be your choice?

## Other issues to consider...

Write your requests clearly. If needed, use extra space to write about specific treatment you do or do not want (i.e. the use of CPR or breathing machines). You will also be asked about artificial hydration and nutrition.

Do not put originals in a safety deposit box or other secure place that cannot be easily accessed when they are needed.

Make copies of your documents, and share them with your family members, spokesperson, attorney, physicians, health care center and anyone else involved in your health care.

Revisit your directives as you age or your health status changes. Your care decisions may change.

If you want to make changes, complete a new form and communicate your wishes to all involved.

Laws differ from state to state. If you are traveling or moving, you may need to adjust your information. A different conversation...

# ...What gives your life meaning?

## Definitions:

### Allow Natural Death (AND)

This decision provides care and comfort measures for a terminally ill patient in place of aggressive, life-prolonging measures.

### Artificial hydration & Nutrition

This refers to a method of delivering a chemically balanced mix of nutrients and fluids when a patient is not able to eat or drink. The patient may receive fluids through a tube inserted directly into his or her stomach, a tube put through the nose and throat to the stomach, or a needle in a vein.

### CPR

Cardiopulmonary Resuscitation, or CPR, is a medical procedure that can include chest compressions, drugs or electric shock in an attempt to restore a heartbeat. CPR is generally not successful in a terminally ill person.

### DNR

Do not resuscitate is a medical order to not perform CPR if a patient's heart stops beating, and allow natural death.

### Hospice

Hospice is a program of support for terminally ill patients and their families. A team of specially trained professionals focuses on pain and symptom management, spiritual issues, financial and legal issues, and other needs. Care may be provided at home or in the hospital, nursing home or other settings

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## For more information, please visit the following web sites:

National Hospice and Palliative Care Organization, [www.nhpc.org](http://www.nhpc.org)

Aging with Dignity, [www.agingwithdignity.org](http://www.agingwithdignity.org)

Caring Connections, [www.caringinfo.org](http://www.caringinfo.org)

American Hospice Foundation, [www.americanhospice.org](http://www.americanhospice.org)

South Dakota State Medical Association, [www.sdsma.org](http://www.sdsma.org)

South Dakota Hospice Organization, [www.southdakotahospice.org](http://www.southdakotahospice.org)

LifeCircle South Dakota, [www.LifeCirclesd.org](http://www.LifeCirclesd.org)

South Dakota State, [www.state.sd.us](http://www.state.sd.us)

## Contributing Programs:

South Dakota Bar Association, South Dakota State Medical Association, South Dakota Hospice Organization, Countryside Hospice, Inc.,

South Dakota Association of Healthcare Organizations, Avera McKennan Hospice, Avera Health, LifeCircle South Dakota,

Sanford Health and Hospice



## Planning for health care decisions Your right to choose

Have you ever thought about what would happen if you suddenly became incapable of making your own health care decisions? Who would make the decisions for you? How would they be made?

Patients who are capable of making their own health care decisions have the right to consent, to reject and to withdraw consent for medical procedures, treatments or interventions. They may say yes, no, or “I will think about it.” For patients who are incapable, someone else must make decisions for them. For many patients, this possible loss of control is a concern. Should they try to designate someone else to speak for them? How do they protect and effectively transfer their right to choose to a person whom they know will speak their mind and heart?

Those concerns can be addressed by signing an advance directive - a document that sets out guidelines for your future care. The two most common types of advance directives are the durable power of attorney for health care and the living will. The purpose of this pamphlet is to describe the durable power of attorney for health care and the living will in light of current South Dakota law and medical practice.

### Frequently Asked Questions

#### Durable Power of Attorney for Health Care Living and Living Will

##### What is a durable power of attorney for health care?

A durable power of attorney for health care is a document that you create by appointing another person, the health care “agent,” or “attorney in fact,” to make health care decisions for you should you become incapable of making them yourself.

##### What is a living will?

A living will is a document that gives instructions to your physician and other health care providers as to the circumstances under which you want life sustaining treatment to be provided, withheld or withdrawn if you are terminally ill.

##### Are durable powers of attorney for health care and living wills recognized in South Dakota?

Both are recognized in South Dakota. The durable power of attorney for health care became part of South Dakota law on July 1, 1990, and the living will became part of South Dakota law on July 1, 1991. If you signed a durable power of attorney for health care before July 1, 1990, or if you signed a living will before July 1, 1991, you should have your document reviewed to make certain that it meets current requirements.

##### Which is better - a durable power of attorney for health care or a living will?

Most experts agree that a durable power of attorney for health care is a far better option than a living will. The durable power of attorney for health care can do for you everything that a living will can do, and may include a statement of your wishes on the subject of life sustaining treatment.

A durable power of attorney for health care has advantages which the living will does not share. With a durable power of attorney for health care, your agent can actively remind your physician of your wishes, something that a written document, such as a living will, cannot do alone.

Furthermore, a living will only contains directions as to when and whether you want life sustaining treatment, and it goes into effect only after your attending physician and one other physician have diagnosed you as terminally ill or permanently unconscious. A living will does not address the many other health care decisions that must be made should you become incapable of making your own decisions. A durable power of attorney for health care, though, can authorize your agent to make all health care decisions. It is in this way far more comprehensive and flexible than a living will. It is valuable and valid for all adults, both young and old.

##### If I choose a durable power of attorney for health care, whom should I select as my agent?

First, you need to think carefully about who knows you best and will best be able to speak for you on health care matters. For many, this will be a spouse or a child, but you may name anyone, including a friend. Second, you should consider where the person lives and whether that person could be present when health care decisions need to be made for you. Finally, you should consider naming a second person to act as an agent in the event that your first choice is unable or is unwilling to make the decision.

##### What should I tell the person I have selected?

Ask if he or she is willing to accept the responsibility of being your health care agent. If the person you have selected accepts the responsibility, then discuss the various kinds of health care decisions that may have to be made in your future and what your wishes are.

### **Can my agent make a decision against my wishes or proper medical practice?**

No. The agent must follow your wishes and must consider your physician's recommendations. A decision by your agent must be within the range of accepted medical practice.

### **Is there an approved form for a durable power of attorney for health care or living will?**

There is no approved form for a durable power of attorney for health care. Professional assistance should be sought in all instances. The South Dakota living will statute contains a living will form which you may use. It is not a simple document. You should obtain assistance prior to signing the living will form if you do not understand the form or any of its terms.

### **Can I use a power of attorney or living will form which I found in a book or which a friend sent me from another state?**

There is nothing to prevent you from using such forms, but those forms are unlikely to take into account South Dakota's special requirements.

### **What are South Dakota's special requirements?**

The most important relates to what is known as artificial nutrition and hydration. If you want your agent to have authority to direct the withholding or withdrawal of artificial nutrition and hydration, you must say so in your durable power of attorney for health care. If you sign a living will and prefer that artificial nutrition and hydration not be provided, your living will must say so. There also are special provisions relating to withdrawal of treatment from pregnant women.

### **How do I create a durable power of attorney for health care or living will?**

Durable powers of attorney for health care and living wills are not simple documents. They should include your special wishes and should be tailored to meet your needs. You should consult with a lawyer. You should visit with your physician about this before or during the time when you are having the document prepared.

### **What should I do once I have signed a durable power of attorney for health care or living will?**

If you sign a durable power of attorney for health care, you should discuss it with the agent you have selected. No matter which document you have chosen, inform your physician, your family and your religious advisor. You may also want to give copies to each of these individuals but be careful to keep a list; in case you should later decide to revoke your durable power of attorney for health care or living will, you will want to get those copies back. This will remain a part of your permanent medical record unless you choose to amend or revoke at anytime.

### **What if I change my mind after I've created a durable power of attorney for health care or living will?**

You can amend or revoke a durable power of attorney for health care or living will at any time while you are still capable of doing so.

### **If I should be hospitalized or enter a nursing home, how do I know whether the hospital or nursing home will honor my durable power of attorney for health care or living will?**

Effective Dec. 1, 1991, a federal law requires that hospitals, nursing homes, home health agencies and hospice programs provide their patients and residents with written information on their policies with respect to durable powers of attorney for health care and living wills. Most hospitals and nursing homes will provide this written information during the admissions process. You should carefully consider the questions and information set forth in this pamphlet prior to your admission to a hospital or nursing home.

### **Do it now.**

Durable powers of attorney for health care and living wills are like fire insurance. You must do it before the fire. You have the right to have either or both document(s) as long as you are capable of making decisions for yourself. Once you are incapable of making your own decisions, you lose the opportunity to choose someone to speak for you or to make your wishes known about future health care decisions. If that should occur, the health care decisions made for you may not be those that you would choose for yourself. Please don't delay. Do it today.

## LIVING WILL DECLARATION

This is an important legal document. A living will directs the medical treatment you are to receive in the event you are in a terminal condition and are unable to participate in your own medical decisions. This living will may state what kind of treatment you want or do not want to receive.

Prepare this living will carefully. If you use this form, read it completely. You may want to seek professional help to make sure the form does what you intend and is completed without mistakes.

This living will remains valid and in effect until and unless you revoke it. Review this living will periodically to make sure it continues to reflect your wishes. You may amend or revoke this living will at any time by notifying your physician and other health care providers. You should give copies of this living will to your family, your physician, and your health care facility. This form is entirely optional. If you choose to use this form, please note that the form provides signature lines for you, the two witnesses whom you have selected, and a notary public.

### TO MY FAMILY, HEALTH CARE PROVIDER, AND ALL THOSE CONCERNED WITH MY CARE:

I, \_\_\_\_\_, direct you to follow my wishes for care if I am in a terminal condition, my death is imminent, and I am unable to communicate my decisions about my medical care.

#### **With respect to any life-sustaining treatment, I direct the following:**

(Initial only one of the following options. If you do not agree with either of the following options; space is provided below for you to write your own instructions.)

\_\_\_\_\_ If my death is imminent or I am permanently unconscious, I choose not to prolong my life. If life sustaining treatment has been started, stop it, but keep me comfortable and control my pain.

\_\_\_\_\_ Even if my death is imminent or I am permanently unconscious, I choose to prolong my life.

\_\_\_\_\_ I choose neither of the above options, and here are my instructions should I become terminally ill and my death is imminent or I am permanently unconscious:

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**Artificial Nutrition and Hydration:** food and water provided by means of a tube inserted into the stomach or intestine or needle into a vein.

#### **With respect to artificial nutrition and hydration, I direct the following:** (Initial only one)

\_\_\_\_\_ If my death is imminent or I am permanently unconscious, I do not want artificial nutrition and hydration. If it has been started, stop it.

\_\_\_\_\_ Even if my death is imminent or I am permanently unconscious; I want artificial nutrition and hydration.

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

\_\_\_\_\_  
(Your signature)

\_\_\_\_\_  
(Your address)

\_\_\_\_\_  
(Type or print your signature)

**WITNESS STATEMENT**

I declare that the person who signed or acknowledged this document is known to me, that he/she signed or acknowledged this living will in my presence and that he/she appears to be of sound mind and under no duress, fraud, or undue influence. I further declare that I am not related to the signer by blood, marriage, or adoption, and to the best of my knowledge, I am not a creditor of the principal nor entitled to any part of his/her estate under a will now existing or by operation of law.

Witness \_\_\_\_\_

Address \_\_\_\_\_

Witness \_\_\_\_\_

Address \_\_\_\_\_

**NOTARIZATION**

**STATE OF** \_\_\_\_\_ **COUNTY OF** \_\_\_\_\_

On this the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, the declarant, \_\_\_\_\_,

and witnesses' \_\_\_\_\_, and \_\_\_\_\_ personally appeared before the undersigned officer and signed the foregoing instrument in my presence.

\_\_\_\_\_ Notary Public

My commission expires: \_\_\_\_\_.

**DURABLE POWER OF ATTORNEY FOR HEALTH CARE**

I, \_\_\_\_\_, being an adult of sound mind, hereby appoint

(Name of principal)

\_\_\_\_\_, of \_\_\_\_\_  
(Name of agent) (His/her address and telephone number)

as my attorney-in-fact ("agent") to consent to, to reject or to withdraw consent for medical procedures, treatment or intervention. In the event the person I appoint above is unable, unwilling or unavailable to act as my health care agent, I appoint as my successor agent:

\_\_\_\_\_, of \_\_\_\_\_  
(Name of successor agent) (His/her address and telephone number)

My agent (or any successor agent) may make any health care decisions for me which I could make individually if I had decisional capacity (except for any limitations given below). All such decisions shall be made in accordance with accepted medical standards and the agent (or any successor agent) may not authorize the withholding or withdrawal of comfort care from me.

My agent (or any successor agent) may authorize the withholding of life-sustaining treatment as set forth in my living will or advance directive (except for any limitations given therein) if I have executed one.

In the event I am unable to communicate verbally or non-verbally, demonstrate no purposeful movement or motor ability and am unable to interact purposefully with environmental stimulation and (1) I have an incurable and irreversible condition such that, in accordance with accepted medical standards, death is imminent if life-sustaining treatment is not administered or (2) I am in a coma or I have a condition of permanent unconsciousness that, in accordance with accepted medical standards, will last indefinitely without significant improvement: *(Initial only one of the following three options and if you do not agree with either of the first two options, space is provided below for you to write your own instructions.)*

\_\_\_\_\_ I authorize my agent (or any successor agent) to direct the withholding of artificial nutrition or hydration from me.  
\_\_\_\_\_ I do not authorize my agent (or any successor agent) to direct the withholding of artificial nutrition or hydration from me.  
\_\_\_\_\_ I authorize the following: \_\_\_\_\_

This durable power of attorney for health care is effective only during any period in which my physician has determined in good faith that I do not have decisional capacity.

Whenever making any health care decision for me, my agent (or any successor agent) shall consider the recommendation of my attending physician, the decision I would have made if I then had decisional capacity (if known) and the decision that would be in my best interests.

I give the following instructions to help guide my agent (or any successor agent): (You may write additional instructions or limitations below.)

Date: \_\_\_\_\_, 2\_\_\_\_\_  
\_\_\_\_\_  
(Your signature)

\_\_\_\_\_  
(Your address) (Type or print your name), principal

**Notarization**

On this the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_, the principal, \_\_\_\_\_, personally appeared before the undersigned officer and signed the foregoing document in my presence.

\_\_\_\_\_  
Notary Public

[SEAL]  
My commission expires:

**OR**  
**Statements of Two Witnesses**

The principal voluntarily signed this document in my presence.



\_\_\_\_\_  
(First witness signature)

\_\_\_\_\_  
(Witness address)

\_\_\_\_\_  
(Type or print witness' name), witness

The principal voluntarily signed this document in my presence.

\_\_\_\_\_  
(Second witness signature)

\_\_\_\_\_  
(Witness address)

\_\_\_\_\_  
(Type or print witness' name), witness

**NOTICE TO PERSON MAKING A DURABLE POWER OF ATTORNEY  
FOR HEALTH CARE**

This is an important legal document. Prepare this durable power of attorney for health care carefully. If you use this form, read it completely. You may want to seek professional help to make sure the form does what you intend and is completed without mistakes.

You have the right to revoke this document in whole or in part at any time you have not been determined to be incapable. A revocation is effective when it is communicated to your attending physician or other