

Facts about Health Care Advance Directives

A health care advance directive can give you and your family peace of mind.

Under Maine law, the term “advance directive” means any spoken or written instructions you give about the health care you want if a time comes when you are too ill to decide. It is best to write it all down because some instructions are required to be in writing. A health care power of attorney is an example of an advance directive that must be in writing.

If you have already signed an advance directive, put it in a safe place and be sure your physician, hospital, and family have a copy. A copy of the signed form is as good as the signed original. If you have not signed a form yet, you may choose to use the Maine Health Care Advance Directive Form. If you become too ill to make choices about your care, the form will let others know which treatments you want and which you do not. This spares family members from having to guess.

The 7 parts of the Maine Health Care Advance Directive Form allow many choices.

Anyone 18 or older may use the Maine Health Care Advance Directive Form in whole or in part. If you are younger than 18, you may also be able to use an advance directive under certain limited circumstances.

Each part is about a different choice. You must sign your advance directive in Part 6. You can get help filling it out and you can take your time. Here’s what each part is about.

Part 1. Choose an agent. This part is called a Health Care Power of Attorney where you name a person to make health care decisions for you. The person you choose to make your health care decisions is your agent. Your agent can be an adult family member or friend. A person who owns or works at the nursing home or other residential facility where you live cannot be your agent, unless the person is also a member of your family.

If you choose an agent, two adult witnesses must sign your advance directive. Your agent may not be a witness.

Part 2. Choose treatments you want and don’t want. In this part you can choose what you wish to have done or not done if you are dying, in a coma or too ill to speak for yourself. Your agent must follow any choices you make in an advance directive.

Part 3. Name your primary care physician (or nurse practitioner or physician assistant).

Part 4. State your wishes about donating your body, organs or tissues at death.

Part 5. State your wishes about funeral and burial arrangements.

Part 6. Sign and date your advance directive.

Part 7. Sign a Do Not Resuscitate (DNR) form. If your breathing or your heart stops and you do not want an ambulance crew to try to revive you, this form must be signed by you and by your physician (or nurse practitioner or physician assistant).

Your physician generally must follow the choices in your advance directive.

You can choose the time when your health care advance directive takes effect:

- 1. Right away.** This means that your agent can start making health care decisions for you right away. In this case, you will be told about your agent's decisions. As long as you are able to make your own decisions, you may override your agent's decision if you wish.

OR

- 2. Only if you are too sick to make decisions yourself.** In this case, your physician will decide when the form goes into effect.

In either case, health care providers and facilities must follow your choices, except in very rare situations. For example, health care providers are not required to give treatment that is not medically effective or treatment that is against accepted standards of care. If your health care provider or facility cannot follow your choices, they must tell you the reason why. They also must assist in moving you to a health care provider or facility that will carry out your decisions.

If you get too sick to make decisions and you don't have an agent, a health care advance directive or a guardian named by a court, Maine law directs your physician to ask certain family members to make decisions for you.

If you do not have an agent, an advance directive or a guardian appointed by a judge, your physician will ask family members what treatment you would want, in this order:

- Spouse (unless legally separated);
- Someone with whom you share an emotional, physical and financial bond similar to a spouse;
- Your adult children;
- Your parents;
- Your adult brothers and sisters;
- Your adult grandchildren;
- Your adult nieces and nephews; and
- Your adult aunts and uncles.

If your physician cannot reach one of these family members, she/he may ask another adult relative or good friend who knows your values. If there are family members or others whom you do not want making decisions for you, make sure you put this in writing and tell your physician.

If you do *not* have an advance directive, family members may tell your physician how to treat you. If you are not close to death or in a permanent coma, they may not refuse treatment that your physician thinks is lifesaving and medically necessary. They may also make some other decisions for you. If you are close to death or you are in a permanent coma, they can tell your physician not to give treatment to keep you alive (life-sustaining treatment).

You always have certain rights as a patient.

When you need medical care, you have certain rights, including the right to refuse care. A health care advance directive does not take away your rights as a patient.

You always have a right to know:

- What your medical problem is and what tests and treatments may be needed;

- What your physician thinks can be done and what the usual risks may be;
- If there are other ways to care for you; and
- What may happen if you refuse treatment.

If you are too ill to make decisions for yourself, the person making decisions for you also has a right to know this information.

If your breathing or your heart stops and you do not want an ambulance crew to try to start them again, you and your physician (or nurse practitioner or physician assistant) must sign a Do Not Resuscitate (DNR) form and make sure medical personnel know about it.

Part 7 of the Maine Health Care Advance Directive Form includes a Do Not Resuscitate (DNR) form. If you choose to complete this section, it lets your physician and ambulance crews know that you do not want drugs, machines or CPR to be used to restart your breathing or heart beat. You and your physician (**or** nurse practitioner **or** physician assistant) must both sign the DNR form. Make sure your family and other caregivers have copies of your signed DNR form. It's wise to carry it with you or wear health alert jewelry that tells others that you do not want to be revived if your breathing or heart stops.

If your breathing or heart stops at home and you don't want an ambulance crew to try to revive you, you must make sure that those who live with you know this so that they can immediately show the ambulance crew your signed DNR form or your health alert jewelry. Keep your signed DNR form in the most visible area near you.

If your breathing or your heart stops while you are receiving home health or hospice services and you do not want staff to try to start them again, your physician must write a DNR order in your plan of care.

The physician in charge of your home health or hospice services must include a DNR order in your plan of care, even if you signed a DNR form as part of your advance directive form.

If your breathing or your heart stops while you are in the hospital or nursing home and you do not want staff to try to start them again, your physician must write a DNR order in your medical record.

Federal law requires health care facilities to have a physician's DNR order written in your medical record, even if you signed a DNR form as part of your advance directive form before you were admitted to the hospital or nursing home.

A health care advance directive does not apply to your money or property.

Your health care agent can not make decisions about your money or your property. You need to appoint a financial power of attorney to make these decisions for you, using a different form. Discuss this with your lawyer.

If you have a mental health condition, there is another form you may choose to use.

If you have a mental health condition and you wish to make choices in advance about the care you want, you may also use a mental health directive form. Contact the Maine Disability Rights Center to get a sample form at 1-800-452-1948 or print it from this web site: http://www.drcme.org/uploads/Advance_Health_Care_Directives.pdf. The Maine Disability Rights Center staff can also help you fill out the form.

You have the right to request health care advance directive forms, sign or not sign a form, and change your mind.

No one can make you sign a health care advance directive or stop you from signing one. You also have the right to change or cancel a form at any time or change your agent. An advance directive form does not allow anyone to violate laws against mercy killing and euthanasia.

Every hospital, nursing home and many other places that provide health care in Maine have these forms or can tell you how to get them. Ask your physician (**or** nurse practitioner **or** physician assistant). They can explain the forms but cannot give you legal advice.

The Maine law about advance directives is called the Uniform Health Care Decisions Act. It is available on this web site:

<http://janus.state.me.us/legis/statutes/18-a/title18-Ach5sec0.html>.

You, or those people making your decisions for you, have the right to file a complaint if your health care advance directive was not handled correctly.

If you have a complaint about how a hospital or other health care facility handled your health care advance directive, you may contact:

Division of Licensing and Regulatory Services
Maine Department of Health and Human Services
State House Station 11, 41 Anthony Ave.
Augusta, ME 04333
Tel: 207-287-9300 or 1-800-383-2441

If you have a complaint about how a physician or physician assistant handled your health care advance directive, you may contact:

Maine Board of Licensure in Medicine
137 State House Station
Augusta, ME 04333-0137
Tel: 207-287-3601 OR Complaints: 1-888-365-9964

OR

State of Maine Board of Osteopathic Licensure
142 State House Station
Augusta, ME 04333-0142
Tel: 207-287-2480 OR Complaints: 1-888-365-9964

If you have a complaint about how a nurse practitioner handled your health care advance directive, you may contact:

Maine State Board of Nursing
158 State House Station
Augusta, ME 04333-0158
Tel: 207-287-1133