

# The Advance Directive

## Taking Charge of Your Health Care

A Description of Maine Law on Health Care Advance Directives

### Choosing your care.

When you need medical care, you have the right to make choices about that care. But there may come a time when you are so sick that you can't make your choices known. You can stay in charge by putting your choices in writing ahead of this time. This is called giving *advance directives*.

### What is an advance directive?

Under Maine law, any spoken or written decision or instruction about the health care you want in the future is called an advance directive. You can tell your doctor or family what you want. But it's best to write it down.

Advance directives also are sometimes called living wills and durable health care powers of attorney. If you have already signed one, be sure your doctor, your hospital and your family have a copy.

### Who can complete an advance directive?

Anyone living in Maine who is 18 years of age or older can complete an advance directive. If you are younger than 18, you may also be able to complete an advance directive under other certain, limited circumstances.

### How does an advance directive help?

If you sign an advance directive, your family and your doctor will know whom to talk to about your care or what kinds of treatment you want or don't want when you are too sick to decide. This could happen if you have a serious illness, near the end of life, or are no longer aware. If doctors don't know

your wishes, they will treat you until they can ask your family what you want. If your family doesn't know, you may get treatments you don't want or which you would stop if you had your way. In an emergency, you will receive care until the doctors can determine your condition and what your wishes are. If you do not have an advance directive, Maine law allows your doctor to ask your relative – and perhaps others close to you – to make decisions about your care as explained on the next page.

### What do I choose in an advance directive?

The advance directive form allows you to do five things:

1. Choose someone to make all your health care decisions beginning either right away or when you are too sick to decide. That person is called your agent. Your agent can be a family member or friend. If you choose an agent, two (2) witnesses must sign your advance directive.
2. Choose whether or not you want certain treatments when you are no longer aware, very ill, or may not live. For example, you choose what you wish to have done or not done if you are dying, or if you are in a permanent coma. Your agent must follow any choices you make in an advance directive.
3. State a desire to donate your organs. (Your family will make the final decision, but this will tell them your wishes.)

4. Name your primary doctor.
5. State your wishes or name someone to decide funeral and burial matters.

### **What happens if my heart stops in the hospital or nursing home?**

If your heart or breathing suddenly stops in the hospital or nursing home, drugs, machines, and other means will be used to try to restart them. This is called cardiopulmonary resuscitation or CPR. CPR is always done unless your doctor writes an order called a “Do Not Resuscitate” order or DNR. If you have concerns about CPR, discuss them with your doctor while you are well. If you make an advance directive that says you do not want CPR, it may not be possible for the hospital or nursing home to follow your decision all the time. For example, if you go to the emergency room and your heart has stopped, there may be no time to check your advance directive before CPR is started. If you do not want CPR while you are in the hospital or nursing home, your doctor must write a DNR order for you and put it in your medical record.

### **What if my heart stops at home?**

If you are at home and your heart stops, ambulance crews may still give you CPR even if you have an advance directive. You should talk with your doctor if you do not want CPR at any time. If you and your doctor both sign a special form – now orange – then your decision not to have CPR should be followed. Show that form to those close to you and keep it where it will be easily seen. Your doctor will then give you a special bracelet or wallet card designed to alert ambulance crews that you do not want CPR.

### **When does my advance directive go into effect?**

You can fill out the form in either of two ways to decide when it goes into effect.

You may want your advance directive to be used only when you are too sick to choose your care or tell others what care you want. If you fill out the form this way, your doctor will decide when the form goes into effect. Or, you may fill out the form so your agent can make those decisions right away, but you will still be told about them.

### **Who will decide my care when I’m too sick to choose if I don’t have an agent or an advance directive?**

If you do not name an agent or do not have an advance directive, the doctor will ask your loved ones what treatment you would want, in this order: your 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, your adult aunts and uncles. If there are family members whom you do not want to make decisions for you, you need to put this in writing and give it to your doctor or hospital.

If the doctor can’t reach a family member, the doctor may ask another adult relative or good friend who knows your values.

### **What happens if I do not make an advance directive?**

Your family can tell your doctor to continue to treat you. They can also tell your doctor to stop or not give treatment to keep you alive (life sustaining treatment) if you are dying or in a permanent coma. They may also make some other decisions for you if you are no longer aware and there is no guardian or advance directive, but no one may deny surgery or procedures to save your life if your doctor thinks they are necessary.

**Does my doctor have to follow my choices?**

Yes. If your doctor, hospital, or other place of health care has any special rules about health care decisions, or if they will not carry out your decision, they must tell you. They must then arrange to move you to a doctor, hospital, or other place which will carry out your decisions.

**What if I suffer from a mental health problem?**

You may also choose to sign a different form, called a mental health directive, that allows you to choose what treatment you want if you become very mentally ill and are unable to make health care decisions.

**What rights do I have as a patient?**

When you need medical care, you have certain rights, including the right to refuse care. You have a right to know:

- what your medical problem is and what tests and treatments may be needed;
- what the doctor 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 care.

**What else should I know?**

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. Just ask your doctor or nurse. They can explain the forms, but they cannot give you legal advice.

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

If you have a complaint about how a hospital or other provider of health care handled your advance directive, you can contact:

Licensing Division  
Maine Department of Human Services  
11 State House Station  
Augusta, Maine 04333-0011  
(207) 624-5443

The advance health care directive form does not allow others to control your money or property. To appoint someone to control your money and property, you need a different form – a financial power of attorney – and you should discuss that with your lawyer.

**Remember**

You can plan in advance for the time when you may not be able to state your health care choices. Talk with your doctor, family members, clergy and others about your wishes. Put your decisions in writing. This may save your family and others from having to make painful decisions later on.