

# Advance Directives

## YOUR RIGHT TO DECIDE

The purpose of this document is to inform you of ways that you can direct your medical care and treatment in the event that you are unable to communicate for yourself.

### The Importance of Advance Directives

Each time you visit your physician, you make decisions regarding your personal health care. Your physician makes a diagnosis and informs you about available medical treatment. You then decide what treatment to accept. That process works until you are unable to decide what treatments to accept or become unable to communicate your decisions. Diseases common to aging such as dementia or Alzheimer's disease may take away your ability to decide and communicate your health care wishes. Even young people can have strokes or accidents that may keep them from making their own health care decisions. Advance directives are a way to manage your future health care when you cannot speak for yourself.

### What is an Advance Directive?

An advance directive is a legal document that can be completed by all adults at any age or stage of health that both clearly communicates a patient's preferences for treatment and allows the patient to appoint a health care representative who can consent to care on their behalf.

Advance directives have long been an important way to convey instructions for medical treatment. In 2021, the Indiana legislature adopted a new law that simplified some of the many different types of advance directive forms. The new framework combines the health care representative and health care power of attorney function. Eskenazi Health has combined these new



features into its Advance Directives for Health Care packet, where patients can appoint decision-makers and express their preferences and priorities for end-of-life care.

You can decide whether you want your advance directive to be effective immediately upon signing (although you would retain ultimate authority while you have decision-making capacity if you disagree with your decision-maker) or you can make your advance directive effective upon your incapacity. By stating your health care choices in an advance directive, you help your family and physician understand your wishes about your medical care.

An advance directive may name a person of your choice to make health care choices for you when you cannot make the choices for yourself. If you want, you may also use an advance directive to prevent certain people from making health care decisions on your behalf. Your advance directive will not take away your right to decide your current health care, as long as you are able to decide and express your own decisions.

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## Are Advance Directives Required?

Advance directives are not required. Your physician or hospital cannot require you to make an advance directive if you do not want one. No one may discriminate against you if you do not sign one. Physicians and hospitals often encourage patients to complete advance directive documents to gain information about health care choices so that wishes can be followed.

## What Happens if You Do Not Have an Advance Directive?

If you do not have an advance directive that either states your treatment preferences or identifies a decision-maker and you become unable to choose medical care or treatment, Indiana law decides who can do this for you. Indiana Code § 16-36-7-42 prioritizes a list of individuals who can make health care decisions for you.

## What Do I Need to Consider About Making My Wishes Known?

When completing an advance directive, think about the following:

- Who would be a good decision-maker?
- How much direction do I want to give?
- Do I want my decision-maker participating in decisions while I still have capacity or only after I lose my decision-making capacity?
- What are the most important qualities and parts of my life that I want my treatment team and decision-maker to know?
- What would my priorities be if I was very sick and death was likely?
- Do I want my decision-maker to have authority to make all decisions, including things like making anatomical gifts, signing me up for health care benefits, burial choices and accessing my mental health records? Or do I want to create some restrictions?
- Do I want multiple decision-makers? Or, do I want to specifically exclude certain people from participating in my care?

These are all things you might consider when you're preparing an advance directive. It is a great opportunity for you to express your preferences about your goals of care, your treatment preferences and who can/cannot make decisions on your behalf.

One of the most important things to do is to talk about your health care wishes with your physician. Your physician can follow your wishes only if those wishes are known. Your physician will record your choices in your medical record for future reference. Your verbal instructions may be followed even if you do not complete a written advance directive. However, this does not cover all situations. Spoken instructions provide no written evidence and carry less weight than written instructions if there is a disagreement over your care. Writing down your health care choices in an advance directive document makes your wishes clear.

If you have written advance directives, it is important that you give a copy to your physician to keep in your medical chart. Your physician can write orders in your medical chart based on your written advance directives or your spoken instructions. For instance, if you have a fatal disease and do not want cardiopulmonary resuscitation (CPR), your physician will need to write a "do not resuscitate" (DNR) order in your chart. The order makes the hospital staff aware of your wishes. Because most people have several health care providers, you should discuss your wishes with all of your providers and give each provider a copy of your advance directive if you receive health care across multiple health systems.

It is difficult to talk with family about dying or being unable to communicate. However, it is important to talk with your family about your wishes and ask them to follow your wishes. You do not always know when or where an illness or accident will occur. It is likely that your family would be the first ones called in an emergency. They are the best source of providing advance directives to a health care provider.

## What Types of Advance Directives are Recognized by Indiana?

As of July 1, 2021, Indiana will no longer mandate the use of an official form for an advance directive. Patients may request Eskenazi Health's New Style Advance Directive form. Advance

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directive templates recognized in the state of Indiana are also available through The Indiana Patient Preferences Coalition, Prepare for Your Care and Five Wishes.

Old forms from the Indiana Department of Health signed *after* Jan. 1, 2023 may not be recognized. However, your advance directives on old forms signed *before* Jan. 1, 2023, will continue to be recognized. You are encouraged to update your advance directives if feasible.

Other advance care planning options recognized in Indiana include: organ/tissue donation, psychiatric advance directives, out of hospital do not resuscitate declaration and order, physician orders for scope of treatment (POST), and funeral planning declaration.

## Organ and Tissue Donation

Donating your organs is a way to help others. Making your wishes concerning organ donation clear to your physician and family is an important first step. This lets them know that you wish to be an organ donor. Organ donation is controlled by the Indiana Uniform Anatomical Gift Act found at Indiana Code § 29-2-16.1. People who want to donate organs must register as an organ donor. You can do this by visiting [www.DonateLifeIndiana.org](http://www.DonateLifeIndiana.org) or asking for your driver's license to be marked accordingly when you renew it at a BMV branch. If you do not have a written document for organ donation, someone else will make the decision for you.

## Psychiatric Advance Directive

A person with a history of mental illness and treatment may be interested in a psychiatric advance directive. This is a written document that expresses your preferences and consent to treatment for a specific diagnosis. The directive sets forth the care and treatment of a mental illness during periods of incapacity. This directive requires certain items in order for the directive to be valid, including approval from and signature of your treating psychiatrist. Indiana Code § 16-36-1.7 provides the requirements for this type of advance directive.

## Out of Hospital Do Not Resuscitate Declaration and Order

In a hospital, if you have a terminal condition and you do not want CPR, your physician will write a "do not resuscitate" (DNR) order in your medical chart. However, for situations outside of a hospital, the out of hospital DNR is used to state your wishes. The out of hospital DNR must be signed by you and your physician, nurse practitioner or physician assistant; you must be considered a qualified patient who needs this directive.

The declaration may be canceled by you at any time by a signed and dated writing, by destroying or canceling the document, or by communicating to health care providers at the scene your desire to cancel the order. Emergency medical services (EMS) may have procedures in place for marking your home so they know you have an order. Consider contacting your local EMS provider to find out their procedures.

## Physician Orders for Scope of Treatment (POST)

A "physician orders for scope of treatment" (also referred to as POST) is a physician order for a person with any of the following:

1. An advanced chronic progressive illness
2. An advanced chronic progressive frailty
3. Another qualifying condition

In consultation with you (or your legal representative), your physician will write orders that reflect your wishes with regard to CPR, medical interventions (comfort measures, limited additional interventions or full treatment), antibiotics and artificially administered nutrition. The Indiana POST form is available on the Indiana Department of Health website.

The POST form must be in English and signed and dated by you (or your legal representative) and your physician, nurse practitioner or physician assistant to be valid. Forms in Spanish are available for reference. The original form is your personal property and you should keep it. Paper, facsimile (fax) or electronic copies of a valid POST form are as valid as the original. Your physician is required to keep a copy of your POST form in your medical record, or if the POST form is executed in a health facility, the

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facility will maintain a copy of the form in your medical record. The POST form may be used in any setting, both in or out of the hospital. The POST statute is found at Indiana Code § 16-36-6.

## Funeral Planning Declaration

A funeral planning declaration allows you to specify your wishes concerning funeral planning and burial/cremation method. This declaration requires you to appoint a designee to carry out your wishes. Please check to make sure it doesn't conflict with your new style advance directive.

## Which Directives Should Be Used?

Although an attorney is not required, you may want to talk with one before you sign an advance directive. Under the new Indiana Code § 16-36-7, you can create a very personalized advance directive, but you may need legal advice. An attorney is often helpful in advising you on complex family matters and making sure that your documents are correctly done under Indiana law. An attorney may be helpful if you live in more than one state during the year.

## Can I Change My Mind After I Write an Advance Directive?

It is important to discuss your advance directives with your family and health care providers. Your health care wishes cannot be followed unless someone knows your wishes. You may change or cancel your advance directives at any time as long as you are of sound mind. If you change your mind, you need to tell your family,

health care representative and health care providers. Always be sure to talk directly with your physician and share your exact wishes. If you write and sign a new advance directive, it will replace the previous one.

## Additional Information

For additional information on advance directives, please visit the Indiana Department of Health Advanced Directives Resource Center or The Indiana Patient Preferences Coalition website.

## Summary of Advance Directives

- You have the right to choose the medical care and treatment you receive. Advance directives help make sure you have a say in your future health care and treatment if you become unable to communicate or if you want help with decisions even while you have capacity.
- Even if you do not have written advance directives, it is important to make sure your physician and family are aware of your health care wishes.
- No one can discriminate against you for signing, or not signing, an advance directive. An advance directive is, however, your way to control your future medical treatment.

If you would like help with your advance directives, please ask a member of Patient Access Services (registration), Center for Spiritual Care & Education (chaplains), Transition Support (social work) or Nursing for assistance.