

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. If you have not signed a form, you may use the health care advance directive attached here. But you don't have to.

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 who 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, are 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 doctors to ask your relatives--and per-

haps 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 attached 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 can 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 stop 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 come 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 decisions, 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.

You can use the form in this package. The directions about how to fill it out are with the form. You can use a different form if you want. You don't need a lawyer, although you may want to speak with one. After you sign the form, put the original in a safe place and be sure to give copies to your family, your doctor, and your hospital. You will have earned their thanks and your own peace of mind.

Maine Health Care Advance Directive Form

You may use this form to tell your doctor and others what medical care you want to receive if you become too sick to tell them what you want. You may choose to fill out the whole form or any part of the form. These are the parts:

Part 1

Fill this out if you wish to choose someone to make all your health care decisions for you either right away or if you become too sick to tell others what you want. This person is called your agent.

Part 2

Fill this out if: (1) you did not name an agent in Part 1 and wish now to choose whether you want certain treatments or (2) you did name an agent in Part 1 and wish to tell your agent here your wishes about certain treatments knowing that your agent cannot make different decisions.

Part 3

Fill this out if you want to donate your organs at death. Your family will make the final decision, but this will tell them your wishes.

Part 4

Fill this out if you want to name a primary doctor or health care provider (the main medical person to care for you and make decisions about your care).

Part 5

Fill this out if you want (1) to choose someone to make all funeral and burial decisions after your death, or (2) to tell your entire family any wishes you request about funeral and burial decisions.

Part 6

Sign the form. Have two witnesses sign the form. Tell others about your decision and give copies to your doctor, family and hospital.

Note

You may change any part of this form. You can cross out any words, sentences, or paragraphs you do not want. You can also add your own words. The form lets you choose different ways to handle your care by checking boxes or filling in blanks.

Before filling out this form, we suggest that you talk with your family members, doctors, and others close to you about your wishes. If you make changes or complete a new form, be sure to let others know.

My name (please print) _____

My Address _____

My Birthdate _____

I have given copies of this form to: _____

Advance Directive For: _____

Part 1 — Power of Attorney for Health Care

This part lets you choose another person to make health care decisions for you either right away or when you are too sick to choose your own care. The person you choose is called your agent. You may also name a second and third choice to be your agent if your first choice is not willing or able to do so.

If you choose an agent on this form, but do not make any other changes in this part of the form, **your agent will be able to:**

- make all health care decisions for you including tests, surgery and medication;

- decide whether or not to have food or fluids given to you through tubes or fed into your veins through an IV;
- decide whether or not to use treatments or machines to keep you alive or to restart your heart or breathing;
- choose who will give you health care and where you will get it, such as hospitals, nursing homes, assisted living settings, home health or hospice care;
- make any health decision he or she believes will be in your best interest even if it is not listed in the form.

If your agent does not know what you want, the agent must decide based on your best interests and personal values. In Part 2 you can decide what you want in advance. If you make choices in Part 2, your agent must make decisions based on those choices.

Choosing an agent: I choose the following person as my agent to make health care decisions for me:

Name _____

Title or Relationship _____

Address _____

Home Phone () _____

Work Phone () _____

If I cancel my first choice for agent or if my first choice is not available to be my agent, my second and third choice for agent are listed here:

Choice # 2

Name _____

Title or Relationship _____

Address _____

Home Phone () _____

Work Phone () _____

Choice #3

Name _____

Title or Relationship _____

Address _____

Home Phone () _____

Work Phone () _____

Part 1 Continued

My agent's power:

When my agent can start making decisions for me: (Check A or B)

- A. My agent can make decisions for me only when my primary doctor or a judge decides that I am not able to make my own health care decisions.
- B. My agent can start making health care decisions for me right away, but this does not mean I have given up the right to make my own decisions if I am still aware. When my agent makes a health care decision for me, I will be told, if possible, about that decision before it is carried out unless I say I do not want to know. If I disagree with that decision and am still aware, I can make a different decision. I can change my mind at any time as long as I am aware and either change or end my agent's right to make decisions for me and make decisions for myself. If I want to end my agent's right to make decisions for me, I will tell my primary doctor or I will put it in writing and sign it.

Once my agent has the right to make health care decisions for me, my agent can ask for and look at my medical records and consent to giving my medical information to others.

How my agent must make decisions:

My agent must make health care decisions for me that agree with any choices I have made in this form, and with any other choices or wishes of mine that my agent knows. If my agent does not know my choices or wishes, my agent must make decisions based on my best interests and his or her knowledge of my personal values.

Choosing a guardian:

A guardian is a person chosen by a court to make decisions about my personal care. These decisions include not only health care, but other decisions such as where I will live and how my personal needs will be met. If I need a guardian, I want my agent to be my guardian. If that agent is not willing or able to serve as my guardian, I want the people I have chosen as agent #2 or agent #3, in the order I have chosen them, to be my guardian. If my guardian is different from my agent, my agent will still be in charge of my health care unless a judge makes a different decision.

Advance Directive For: _____

Part 2 — Special Instructions

Instructions if you did not name an agent in Part 1

If you do not name an agent in Part 1, you should fill out this Part to state what you want for care if you become sick and cannot make your choices known.

Instructions if you did name an agent in Part 1

If you did name an agent in Part 1, you do not have to fill out this part of the form. If you want your agent to make all of your health care decisions, DO NOT fill out this part of the form. Your agent will make decisions in your best interests, including decisions to refuse treatment. However, you may use the boxes below if you want to give special directions to your agent about your wishes, such as when you are near death, in a permanent coma or no longer aware. You may also cross out or add words. If you complete this part, however, your doctor and others will follow these instructions and your agent cannot make a different decision. You may prefer to talk with your agent. You may also write your wishes on another piece of paper, sign it, date it, and keep it with this form.

End-of-Life Choices: I have checked below my choices about keeping me alive:

a. Choice not to be kept alive

b. Choice to be kept alive

I do not want to be kept alive if my doctor decides any of the following are true:

I want to be kept alive as long as possible within the limits of generally accepted health care standards.

(i) I have an illness that will not get better, cannot be cured, and will result in my death quite soon;

OR

(ii) I am no longer aware (unconscious) and it is very likely that I will never be conscious again;

OR

(iii) My doctor, after talking with others involved in my healthcare, decides that the likely risks and burdens of treatment would be more than the expected benefits.

Additional End-of-Life Choice: I may also check one of the boxes below to show my choice about keeping me alive if I am no longer aware.

I do not want treatment to keep me alive if my doctor decides that I can no longer recognize most people or communicate and understand due to serious disease or damage to my brain and treatment to keep me alive is not expected to cure or improve my mental condition.

I want treatment to keep me alive that is generally given for my medical condition even if I no longer recognize most people or communicate and understand due to serious disease or damage to my brain, and the treatment will not cure or improve my mental condition.

Advance Directive For: _____

Part 2 — Special Instructions (Continued)

Tube Feeding: I have checked below my choices about tube feeding or having water and nutrition fed into my body through an IV or tube (artificial nutrition and hydration):

Artificial nutrition and hydration must be given, not given, or stopped based on the choice I made about keeping me alive.

Artificial nutrition and hydration must be given regardless of my condition and regardless of the choice I made on the previous page about keeping me alive.

Relief from pain: I want care that will allow me to be more comfortable. I also may make special choices about pain relief if I check the box below:

I want treatment for relief of pain or discomfort to be given at all times, even if it shortens the time until my death or makes me drowsy, unconscious, or unable to do other things.

These are my wishes about relief of pain or discomfort: _____

Advance Directive For: _____

Part 3 — Donation of Organs at Death

(Fill out this part only if you want to donate your organs. You do not have to donate organs at your death.)

I have checked below my choices about donating my organs at death. I understand my family will make this decision, but I hope they will follow my wishes. (Check A or B).

A. My gift is for transplant or therapy for another person, to be chosen based on generally accepted health care standards. (check i or ii).

i. I give any needed organs, tissues or parts, OR

ii. I give the following organs, tissues, or parts only:

B. My gift is for research and education. My preference, if any, is to give my organs to the following hospital, medical school, or doctor:

Name _____

Address _____

Check i or ii:

i. I give any needed organs, tissues or parts, OR

ii. I give the following organs, tissues, or parts only:

Part 4 — Primary Doctor or Health Care Provider

(Fill out this part only if you wish to name your primary doctor or health care provider today.)

Name of doctor or health care provider: _____

Address: _____ Phone: _____

I want any agent I named in Part 1 to talk with this medical person about my health care. If the medical person I have named above is not willing or able to carry out my wishes, I want any agent I named in Part 1 to talk with the medical person listed below:

Name of doctor or health care provider: _____

Address: _____ Phone: _____

Advance Directive For: _____

Part 5 — Instructions About Funeral and Burial Arrangements

(Fill out this part only if you wish to give special instructions here.)

I hope that my family will follow my wishes after I die as noted below.

I now choose _____ to have custody and control of my body after my death with the right to decide everything about my funeral and burial.

OR

I want my family to know these are my wishes about possible burial, cremation, funeral and memorial service: (Fill in): _____

Advance Directive For: _____

Part 6—Signing the Form

If you have filled out this form, you must sign and date it. You must also have 2 other people sign as witnesses. Your agent cannot sign as a witness. You do not need to have a Notary Public sign your Advance Directive form to make it legal in Maine. However, if you travel or live part of the year out-of-state, it would be wise to have it signed by a Notary. Some states require this. You can find this service under Notary Public in the phone book. Most banks also have Notaries Public and will usually notarize papers for bank customers when asked.

Sign and date the form here:

Sign your name: _____

Address: _____

Print your name: _____

Date: _____

First witness:

Signature: _____

Address: _____

Printed name: _____

Date: _____

Second witness:

Signature: _____

Address: _____

Printed name: _____

Date: _____

Notary Acknowledgment. Then personally appeared the above named _____ to me well known and acknowledged this Advance Directive, including power of attorney for healthcare, as his/her free act and deed before me.

Date: _____

Notary Public State of: _____

Commission Exp.: _____

Print Name

Make sure to tell people. Tell your family members, doctors, and others close to you what you have decided. You should talk to the agent(s) you have chosen to make sure that they understand your wishes and are willing to carry them out. Give a copy of this form to your doctor, to any other health care providers you have, to any place where you get health care, and to any agents you have chosen in Part 1. Please be sure to list the people who have copies on the front page.

Canceling or Changing the form. You may end your agent's right to make decisions while you are still able to make those decisions by telling your primary doctor. You may cancel this form or change agents or your instructions while you are still able to make those decisions by (1) writing on this form, (2) writing on another piece of paper, or (3) completing a new form, and any of those written changes should be signed and dated by you. Any time you cancel, replace or change this form you should give copies of the changed or new form to everyone who has a copy of this form.