

VIRGINIA

Advance Directive

Planning for Important Health Care Decisions

CaringInfo

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CARINGINFO

CaringInfo, a program of the National Hospice and Palliative Care Organization (NHPCO), is a national consumer engagement initiative to improve care at the end of life.

It's About How You LIVE

It's About How You LIVE is a national community engagement campaign encouraging individuals to make informed decisions about end-of-life care and services. The campaign encourages people to:

- L**earn about options for end-of-life services and care
- I**mplement plans to ensure wishes are honored
- V**oice decisions to family, friends and health care providers
- E**ngage in personal or community efforts to improve end-of-life care

Note: The following is not a substitute for legal advice. While CaringInfo updates the following information and form to keep them up-to-date, changes in the underlying law can affect how the form will operate in the event you lose the ability to make decisions for yourself. If you have any questions about how the form will help ensure your wishes are carried out, or if your wishes do not seem to fit with the form, you may wish to talk to your health care provider or an attorney with experience in drafting advance directives.

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Using these Materials

BEFORE YOU BEGIN

1. Check to be sure that you have the materials for each state in which you may receive health care.
2. These materials include:
 - Instructions for preparing your advance directive, please read all the instructions.
 - Your state-specific advance directive forms, which are the pages with the gray instruction bar on the left side.

ACTION STEPS

1. You may want to photocopy or print a second set of these forms before you start so you will have a clean copy if you need to start over.
2. When you begin to fill out the forms, refer to the gray instruction bars — they will guide you through the process.
3. Talk with your family, friends, and physicians about your advance directive. Be sure the person you appoint to make decisions on your behalf understands your wishes.
4. Once the form is completed and signed, photocopy the form and give it to the person you have appointed to make decisions on your behalf, your family, friends, health care providers, and/or faith leaders so that the form is available in the event of an emergency.
5. Virginia maintains an Advance Directive Registry. By filing your advance directive with the registry, your health care provider and loved ones may be able to find a copy of your directive in the event you are unable to provide one. You can read more about the registry, including instructions on how to file your advance directive, at <https://www.virginiaregistry.org>.
6. You may also want to save a copy of your form in an online personal health records application, program, or service that allows you to share your medical documents with your physicians, family, and others who you want to take an active role in your advance care planning.

Introduction to Your Virginia Advance Directive

This packet contains a **Virginia Advance Directive**, which protects your right to refuse medical treatment you do not want or to request treatment you do want in the event you lose the ability to make decisions yourself. You may complete Part I, Part II, Part III, or all parts, depending on your advance-planning needs. You must complete Part IV.

Part I, Appointment and Powers of My Agent, lets you name an adult, your “agent,” to make decisions about your health care—including decisions about life-prolonging procedures—if you can no longer speak for yourself. This is especially useful because it appoints someone to speak for you any time you are unable to make your own medical decisions, not only at the end of life.

Part I goes into effect when your doctor and one other qualified doctor or clinical psychologist certify in writing that you are incapable of making an informed decision regarding health care.

Part II, My Health Care Instructions, lets you state your wishes about health care in the event you cannot speak for yourself, including if you develop a terminal condition or you are in a persistent vegetative state. If you are an organ, eye or tissue donor, your instructions will be applied so as to ensure the medical suitability of your organs, eyes and tissues for donation.

Part II goes into effect when your doctor and one other qualified doctor or clinical psychologist certify in writing that you are incapable of making an informed decision regarding health care and a condition you have given instructions for arises.

Part III allows you to record your organ and tissue donation wishes.

Part IV contains the signature and witnessing provisions so that your document will be effective.

This form does not expressly address mental illness. If you would like to make advance care plans regarding mental illness, you should talk to your physician and an attorney about an advance directive tailored to your needs.

Note: This document will be legally binding only if the person completing it is a competent adult (at least 18 years old).

Completing Your Virginia Advance Directive

How do I make my Virginia Advance Directive legal?

You must sign your advance directive in the presence of two adult witnesses. Any person over the age of 18—including a spouse, other relative, or health care provider—can witness your *Virginia Advance Directive*.

Whom should I appoint as my agent?

Your agent is the person you appoint to make decisions about your health care if you become unable to make those decisions yourself. Your agent may be a family member or a close friend whom you trust to make serious decisions. The person you name as your agent should clearly understand your wishes and be willing to accept the responsibility of making health care decisions for you.

You can appoint a second person as your alternate agent. The alternate will step in if the first person you name as an agent is unable, unwilling, or unavailable to act for you.

Should I add personal instructions to my Virginia Advance Directive?

One of the strongest reasons for naming an agent is to have someone who can respond flexibly as your health care situation changes and deal with situations that you did not foresee. If you add instructions to this document it may help your agent carry out your wishes, but be careful that you do not unintentionally restrict your agent's power to act in your best interest. In any event, be sure to talk with your agent about your future medical care and describe what you consider to be an acceptable "quality of life."

What if I change my mind?

You may revoke your *Virginia Advance Directive* at any time by:

- signing and dating a written revocation,
- physically cancelling or destroying your document, or directing another to do so in your presence, or
- orally expressing your intent to revoke the document.

Your revocation becomes effective when you notify your attending physician.

Also, make certain that you file any updates or changes to your *Virginia Advance Directive* with the Virginia registry.

What other important facts should I know?

You may expressly provide in your Advance Directive that, in the event you are incapable of making an informed health care decision, your agent may authorize or withhold health care over your objection. In order for this provision to be effective, the following must occur:

1. You must name an agent in your Advance Directive;
2. You must specify the treatments to which this provision applies;
3. Your physician or licensed clinical psychologist must attest in writing at the time your Advance Directive is made that you are capable of making an informed decision and understand the consequences of the provision;
4. The health care decision does not involve withholding or withdrawing life-prolonging procedures; and
5. The health care that is to be provided, continued, withheld or withdrawn is determined and documented by your attending physician to be medically appropriate and is otherwise permitted by law.

If you decide to include language regarding care given over your objection, you may wish to speak with your health care provider or an attorney with experience in drafting advance directives regarding this language. Any such language may be included in Part I, No. 11 of your *Virginia Advance Directive*.

Your agent does **not** have the authority to consent to nontherapeutic sterilization, abortion, or psychosurgery.

Virginia Advance Directive

PRINT YOUR NAME

I, _____,
willingly and voluntarily make known my wishes in the event that I am
incapable of making an informed decision about my health care, as follows
in this document.

This advance directive shall not terminate in the event of my disability.

PART I: APPOINTMENT OF AGENT

(CROSS THROUGH AND INITIAL IF YOU DO NOT WANT TO APPOINT AN
AGENT TO MAKE HEALTH CARE DECISIONS FOR YOU)

PRINT THE NAME,
ADDRESS AND
TELEPHONE
NUMBER OF
YOUR PRIMARY
AGENT

I hereby appoint _____,
(primary agent)
of _____

(address and telephone number)

as my agent to make health care decisions on my behalf as authorized in this
document. If the person I have appointed above is not reasonably available or
is unable or unwilling to act as my agent, then I appoint

PRINT THE NAME,
ADDRESS AND
TELEPHONE
NUMBER OF
YOUR ALTERNATE
AGENT

(alternate agent)
of _____

(address and telephone number)

to serve in that capacity.

I grant to my agent, named above, full power and authority to make health
care decisions on my behalf, as described below, whenever I have been
determined to be incapable of making an informed decision. My agent's
authority hereunder is effective as long as I am incapable of making an
informed decision.

In making health care decisions on my behalf, I want my agent to follow my
desires and preferences as stated in this document or as otherwise known to
him or her. If my agent cannot determine what health care choice I would
have made on my own behalf, then I want my agent to make a choice for me
based upon what he or she believes to be in my best interests.

POWERS OF MY AGENT

(CROSS THROUGH AND INITIAL ANY LANGUAGE YOU DO NOT WANT AND ADD ANY LANGUAGE YOU DO WANT)

POWERS OF YOUR AGENT

CROSS THROUGH AND INITIAL ANY LANGUAGE YOU DO NOT WANT AND ADD ANY LANGUAGE YOU DO WANT

The powers of my agent shall include the following:

1. To consent to or refuse or withdraw consent to any type of health care, including, but not limited to, artificial respiration (breathing machine), artificially administered nutrition (tube feeding) and hydration (IV fluids), and cardiopulmonary resuscitation (CPR). This authorization specifically includes the power to consent to dosages of pain-relieving medication in excess of recommended dosages in an amount sufficient to relieve pain. This applies even if this medication carries the risk of addiction or of inadvertently hastening my death.
2. To request, receive, and review any oral or written information regarding my physical or mental health, including but not limited to medical and hospital records, and to consent to the disclosure of this information as necessary to carry out my directions as stated in this advance directive.
3. To employ and discharge my health care providers.
4. To authorize my admission, transfer, or discharge to or from a hospital, hospice, nursing home, assisted living facility, or other medical care facility.
5. To authorize my admission to a health care facility for treatment of mental illness as permitted by law. (If I have other instructions for my agent regarding treatment for mental illness, they are stated in a supplemental document.)
6. To continue to serve as my agent if I object to the agent's authority after I have been determined to be incapable of making an informed decision.
7. To authorize my participation in any health care study approved by an institutional review board or research review committee according to applicable federal or state law if the study offers the prospect of direct therapeutic benefit to me.
8. To authorize my participation in any health care study approved by an institutional review board or research review committee according to applicable federal or state law that aims to increase scientific understanding of any condition that I may have or otherwise to promote human well-being, even though it offers no prospect of direct benefit to me.

B. Instructions if I am in a Persistent Vegetative State

I provide the following instructions if my condition makes me unaware of myself or my surroundings or unable to interact with others, and it is reasonably certain that I will never recover this awareness or ability even with medical treatment:

_____ I do not want any treatments to prolong my life. This includes tube feeding, IV fluids, cardiopulmonary resuscitation (CPR), ventilator/respirator (breathing machine), kidney dialysis, or antibiotics. I understand that I still will receive treatment to relieve pain and make me comfortable.

OR

_____ I want all treatments to prolong my life as long as possible within the limits of generally accepted health care standards. I understand that I will receive treatment to relieve pain and make me comfortable.

OR

_____ I want to try treatments for a period of time in the hope of some improvement of my condition. I suggest _____ (insert time period) as the period of time, after which such treatment should be stopped if my condition has not improved. The exact time period is at the discretion of my agent or surrogate in consultation with my physician. I understand that I still will receive treatment to relieve pain and make me comfortable.

OR

_____ I direct the following regarding when I am unaware of myself or my surroundings or unable to interact with others, and it is reasonably certain that I will never recover this awareness or ability even with medical treatment:

(attach additional pages if needed)

INITIAL ONLY ONE

YOU MAY WRITE
HERE YOUR
INSTRUCTIONS
ABOUT YOUR CARE
WHEN YOU ARE
UNABLE TO
INTERACT WITH
OTHERS AND ARE
NOT EXPECTED TO
RECOVER THIS
ABILITY.

THIS INCLUDES
SPECIFIC
INSTRUCTIONS
ABOUT
TREATMENTS YOU
DO WANT, IF
MEDICALLY
APPROPRIATE, OR
DON'T WANT. IT IS
IMPORTANT THAT
YOUR
INSTRUCTIONS
HERE DO NOT
CONFLICT WITH
OTHER
INSTRUCTIONS YOU
HAVE GIVEN IN
THIS ADVANCE
DIRECTIVE

ATTACH
ADDITIONAL PAGES
IF NEEDED

PART IV: EXECUTION

Affirmation and Right to Revoke: By signing below, I indicate that I am emotionally and mentally capable of making this advance directive and that I understand the purpose and effect of this document. I understand I may revoke all or any part of this document at any time.

SIGN, DATE, AND
PRINT YOUR NAME
HERE

(signature of declarant)

(date)

(printed name)

The declarant signed the foregoing advance directive in my presence.

YOUR TWO
WITNESSES MUST
SIGN, DATE, AND
PRINT THEIR
NAMES HERE

Witness Signature _____ Date _____

Printed name _____

Witness Signature _____ Date _____

Printed name _____

You Have Filled Out Your Health Care Directive, Now What?

1. Your *Virginia Advance Directive* is an important legal document. Keep the original signed document in a secure but accessible place. Do not put the original document in a safe deposit box or any other security box that would keep others from having access to it.
2. Give photocopies of the signed original to your agent and alternate agent, doctor(s), family, close friends, clergy, and anyone else who might become involved in your health care. If you enter a nursing home or hospital, have photocopies of your document placed in your medical records.
3. Be sure to talk to your agent(s), doctor(s), clergy, family, and friends about your wishes concerning medical treatment. Discuss your wishes with them often, particularly if your medical condition changes.
4. Virginia maintains an Advance Directive Registry. By filing your advance directive with the registry, your health care provider and loved ones may be able to find a copy of your directive in the event you are unable to provide one. You can read more about the registry, including instructions on how to file your advance directive, at <https://www.virginiaregistry.org>.
5. You may also want to save a copy of your form in an online personal health records application, program, or service that allows you to share your medical documents with your physicians, family, and others who you want to take an active role in your advance care planning.
6. If you want to make changes to your documents after they have been signed and witnessed, you must complete a new document.
7. Remember, you can always revoke your Virginia document.
8. Be aware that your Virginia document will not be effective in the event of a medical emergency. Ambulance and hospital emergency department personnel are required to provide cardiopulmonary resuscitation (CPR) unless they are given a separate directive that states otherwise. These directives called "prehospital medical care directives," "do not resuscitate orders," or "physician orders for scope of treatment (POST)" are designed for people whose poor health gives them little chance of benefiting from CPR. These directives instruct ambulance and hospital emergency personnel not to attempt CPR if your heart or breathing should stop.

Currently not all states have laws authorizing these orders. We suggest you speak to your physician if you are interested in obtaining one. **CaringInfo does not distribute these forms.**

Congratulations!

You've downloaded **your free, state specific advance directive.**

You are taking important steps to make sure your wishes are known. Help us keep this free.

Your generous support of the National Hospice Foundation and CaringInfo allows us to continue to provide these FREE resources, tools, and information to educate and empower individuals to access advance care planning, caregiving, hospice and grief services, and information.

I hope you will show your support for our mission and make a tax-deductible gift today.

Since 1992, the National Hospice Foundation has been dedicated to creating FREE resources for individuals and families facing a life-limiting illness, raising awareness for the need for hospice care, and providing ongoing professional education and skills development to hospice professionals across the nation.

Your gift strengthens the Foundation's ability to provide FREE caregiver and family resources.

Support your National Hospice Foundation by returning a **generous tax-deductible gift of \$23, \$47, \$64**, or the most generous amount you can send.

You can help us provide resources like this advanced directive FREE by sending in your gift to help others.

Please help to make this possible with your contribution! Cut along the dotted line and use the coupon below to return a check contribution of the most generous amount you can send. Thank you.



YES! I want to support the important work of the National Hospice Foundation.

- \$23** helps us provide free advanced directives
- \$47** helps us maintain our free HelpLine
- \$64** helps us provide webinars to hospice professionals

Return to:
National Hospice Foundation
PO Box 824401
Philadelphia, PA 19182-4401

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OR donate online today: www.caringinfo.org/donate

Medicare Coverage of Advance Care Planning

Beginning in 2016, Medicare Part B will cover advance care planning—i.e., discussions of beneficiary preferences for end-of-life care. This coverage arises out of recommendations from a wide range of stakeholders and bipartisan members of Congress, and was outlined in a final rule published by the Centers for Medicare & Medicaid Services (CMS) in November 2015.

What is advance care planning?

Advance care planning is a service that supports conversations between patients and their doctors and non-physician practitioners (NPPs) to decide what type of care may be right for them in the event of life-limiting conditions or incapacitating illness.

During these conversations, doctors/NPPs may talk through and help the person plan for a time when he/she cannot make his/her own medical decisions. If the beneficiary has a life-threatening condition, the practitioner may discuss creating a disease-specific plan, help the beneficiary explore his/her understanding of the illness progression, and discuss his/her own and their family's hopes, fears, and concerns. They may also talk about care choices during a critical event, and how aggressive they would like their treatment to be (e.g., resuscitation status, antibiotics, and feeding tubes).

Is advance care planning the same as an advance directive?

Advance care planning is not the same as an advance directive, which is a legal document that specifies what should happen if a person is no longer able to make his/her own medical decisions. Advance directives take many forms, such as living wills and durable powers of attorney for health care. Beneficiaries looking to prepare an advance directive should download their [state forms](#) and complete these according to their state's rules to make the documents legally binding. The doctor/NPP can assist with the completion of these forms.

Does a person have to have a terminal illness to take advantage of this benefit?

No. The advance care planning benefit is open to anyone with Medicare. Indeed, often the best time to begin to discuss end-of-life care may be before a person is diagnosed with a life-threatening condition, when there is plenty of time to consider one's preferences.

Having these discussions early also may be useful in guiding future care and treatment decisions by family members and caregivers should the person become incapacitated and unable to make his/her choices known.

Advance care planning is not meant to be a one-time conversation, but a series of discussions over the course of a person's life.

Can the beneficiary change his mind about end-of-life plans later on?

Absolutely. Advance care planning is a continuous discussion. Should the beneficiary complete any forms, such as an advance directive, this can be revoked at his/her discretion at any time, so long as he/she still has the capacity to do so or complete new forms.

What's the difference between advance care planning and hospice care?

Advance care planning may include a discussion about hospice care, how it works, and how it fits in to choices about end-of-life care.

Hospice care is a care choice that a person may make if he/she is diagnosed with a terminal illness with a life expectancy of six months or less. When a beneficiary chooses hospice, he/she signs a statement saying that he/she accepts palliative care instead of other Medicare-covered treatments for the illness. [Learn more about how hospice works.](#)

What do my clients need to know about Medicare costs for this service?

The advance care planning benefit is not one of the free preventive services under Part B. Your clients will have to pay the 20% cost-sharing (after the [Part B deductible](#)) associated with using this service, as they would with other Medicare-covered services. However, if a client chooses to have this service in conjunction with his/her Annual Wellness Visit, he/she will not have any cost-sharing liability (though the physician can bill Medicare for both the AWV and advance care discussion separately).

Beginning January 1, 2016, two billing codes will be available for health providers to use for payment by Medicare when providing advance care planning services. Previously, physicians could only seek reimbursement from Medicare for this service under very limited circumstances.

References

Federal Register, Vol. 80, No. 220, 70885. Nov. 16, 2015. [Revisions to Payment Policies Under the Physician Fee Schedule and Other Revisions to Part B for CY 2016.](#)

Kaiser Family Foundation. Nov. 5, 2015. [10 FAQs: Medicare's Role in End-of-Life Care.](#)