

## What Are Advance Medical Directives?

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### What Are Advance Medical Directives?

UAMS would like you to know that there are ways to let others know what decisions you would want to make about your medical treatments, even when you are unable to speak for yourself. In fact, there are documents known as advance directives that allow you to name a specific person to speak for you concerning your medical care, and/or you can write a document that tells your physicians what you want or do not want for treatments should you be unable to speak for yourself.



For example, you can name someone you want to make medical decisions for you in a *Durable Power of Attorney for Healthcare (DPAH)*. This person will then be the legal medical decision-maker for you should you be unable to speak for yourself. However, there is one exception to this rule: your DPAH is not authorized to make decisions about life-sustaining treatments.

In end-of-life cases should you be terminally ill and unable to speak for yourself or if you become permanently unconscious, you may instruct your physicians on what you do and do not want concerning life-sustaining treatments (including artificial ventilation, hydration, and nutrition). To do this, you can create what is known as *Living Will* (Arkansas law also calls this a “declaration concerning life-sustaining treatments”). You may *also* name someone to make those decisions for you. The person you name to make decisions about life-sustaining treatments is known as a *Health Care Proxy* (this person *may be the same person* as the one who has your Durable Power of Attorney for Healthcare, or it can be someone else, if you wish). Every state makes its own laws concerning advance directives, and *in Arkansas*, the living will and health care proxy **only have authority** if you become permanently unconscious (in a permanent coma or vegetative state) or if you are unable to speak for yourself and have some terminal condition.

Having advance directives is good for everyone young or old, since accidents and illness can strike at any time. It is your right to accept or refuse medical care, and advance directives can protect this right if you become mentally or physically unable to choose or tell someone your wishes.

The following information is intended to help you develop an advance directive, and the forms at the end of this document can be filled out in order to allow you to make some end-of-life decisions in advance that meet Arkansas’ legal requirements. Also, the forms simplify the legal process by combining the Health Care Proxy (the person who makes life-sustaining treatment decisions) with the Durable Power of Attorney for Healthcare (the person who makes all other medical decisions).

*This information has been reviewed and recommended for use by the UAMS/CPED/Patient Education Advisory Committee.*

## Deciding What You Want

Of course, making an advance directive can be difficult. Thinking about end-of-life care can be emotional. Also, we do not always know what such care really would look like. So, before making an advance directive, it can be helpful to start by thinking about what is important to you. Furthermore, it is important to find out about all the treatments open to you. Then you can decide the level of care that you would want. Advance directives can help you protect your right to make medical choices, help your family avoid the stress of making hard decisions, and help your doctor by giving him or her guidelines for your care.

## Recording Your Wishes

Once you know what kinds of medical care you may want, you can express and protect your wishes by putting them in writing. With an advanced directive, you can name someone else to make medical choices for you or you can state the treatments you would choose or not choose.

### Three Kinds of Advance Directives in Arkansas

<b><i>Living Will (Declaration):</i></b> In writing, explains your wishes about your health care if you have a terminal condition. They are called “living” wills because they take effect while a patient is still alive.	<b><i>Health Care Proxy:</i></b> In writing, you can name a person to make decisions about life-sustaining treatments for you should you become permanently unconscious or have a terminal condition and do not have the mental capacity to decide for yourself.	<b><i>Durable Power of Attorney for Healthcare:</i></b> In writing, you can name a person to make medical decisions for you, except those covered by a Health Care Proxy.
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## Taking Steps to Making Your Wishes Known

There are four (4) basic steps to developing an advance directive in order to meet your medical needs and desires at the end-of life. Each one is discussed below.

### Step 1: Clarifying What Is Important To You

End-of-life decisions are actually decisions about how you want to live—specifically, they are about how you want to be cared for in your final months, weeks, and days. So, think about what is important to you. Answering the questions below and talking about the answers with family and friends can be helpful:

- What do you fear most about being ill or injured?
- How much do you value being able to do things on your own?
- How much do you value physical activity?
- How would you feel if you could no longer do things that you currently enjoy?
- How important is it for you to be physically, mentally or financially independent?
- How would you feel about being cared for in a place other than your own home—for example, in a hospital or nursing home—at the end of your life?

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## Step 2: Learning about End-of-life Treatments

An advance directive can be written in order to explain what treatments you wish to have or those you wish to limit should you be permanently unconscious or terminally ill and unable to speak for yourself. Of course, you may decide you do not wish to go to a hospital or other healthcare facility, but should decisions about life-sustaining measure have to be made, you may want to put down in writing what you do and do not want. Some measures to consider are:

- **Cardiopulmonary Resuscitation (CPR)**
  - When the heart stops (cardiac arrest), doctors and nurses use special measures to try and restart the heart. This may include pushing on your chest, giving medicine, or using electrical shock.
- **Intravenous (IV) therapy**
  - Some medication (and, sometimes, even nutritional fluids) are given through a tube placed in the vein.
- **Feeding Tubes (Artificial/Assisted Nutrition)**
  - If you are no longer able to swallow food, there are times when you can be fed through a tube that goes into your nose, your abdomen, or intravenously (through the vein).
- **Ventilators (Artificial/Assisted Breathing)**
  - Ventilators are machines that can help you breathe; sometimes they even breathe for you when you are unable to. Some ventilators are non-invasive (they use masks, and no tube is inserted into your body), but many times patients require intubation (a tube inserted in your wind pipe or through a hole in your neck).

The therapies listed above are not the only therapies that you might want to think about (talk with your doctor about others), and it is important not only to think about the type of therapy but the circumstances where it would apply. Remember, your advance directives can ask that therapies be started, withheld, or stopped. You can even state that you would like a therapy to be started, allowing also that it later be stopped if it looks like it is not going to help you recover.

## Step 3: Creating an Advance Directives

- To create a valid advance directive Arkansas law states that you must be a person of “sound mind” who is at least 18 years old.
- Put your wishes in writing, and be as specific as you can be. [You can create *both* a living will *and* a health care proxy—in case your living will does not anticipate all the circumstances that unfold. You can use the forms at the end of this packet.] If you have not created an Advance Medical Directive, or the written Advance Medical Directive is unavailable, you may make a verbal directive to your healthcare team.
- Sign and date your advance directive.
- You must have two adults witness that you did sign the document, and they, too, must sign and date the form before it is legal.

**[Note: Other states may differ from Arkansas on what is required to create a valid advance directive. If you have created an Advance Directive in another state, in compliance with the laws of that state, it will be accepted.]**

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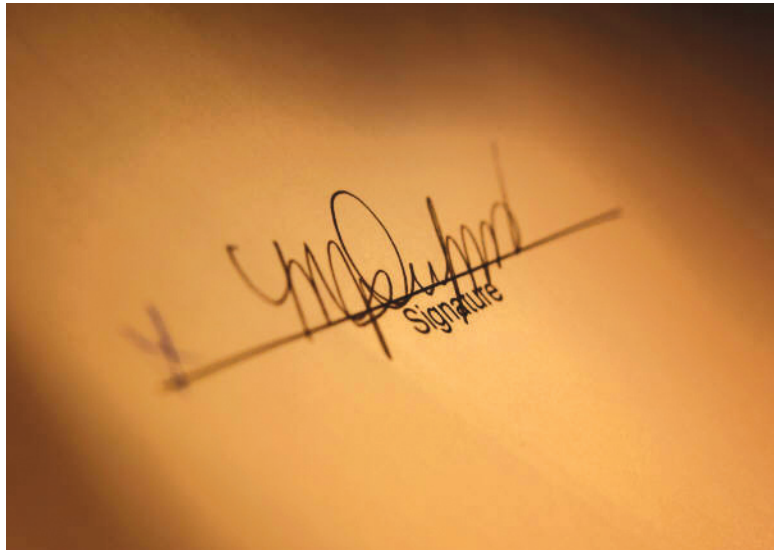
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## Step 4: Making Sure People Know about Your Living Will and Health Care Proxy

- It is a good idea to keep a card in your wallet stating that you have advance directives and where to find them.
- Give your doctor a copy to be kept as part of your medical records.
  - Be sure you explain your reasons for the instructions you leave in a living will. That is, let your physician know why you do and do not want particular treatments at the end-of-life.
- If you use a health care proxy, be sure to give a copy to the person who will be making decisions for you.
  - Be sure you explain your reasons for the instructions you leave in a living will. That is, let your proxy know why you do and do not want particular treatments at the end-of-life.
- Talk about your advance directives with your family and friends. Give copies to all relatives and friends who might be called in an emergency.
  - Be sure you explain your reasons for the instructions you leave in a living will. That is, let your family and friends know why you do and do not want particular treatments at the end-of-life.



***Review your advance directives regularly and make changes if needed. Tell your doctor, family, and friends about any changes you make.***

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## Some Questions and Answers about Advance Directives:

### 1. Who is qualified to make an advance directive?

You must be 18 years or older and be able to make decisions for yourself (that is, you must be of “sound mind”). (As a parent, you can also create one for your children who are less than 18 years of age.)

### 2. When does an advance directive become operative?

A living will has authority to express your wishes only when you are either permanently unconscious or unable to speak for yourself and have a terminal condition. This is also true of the health care proxy for life-sustaining treatment decisions.

***In Arkansas, a living will and health care proxy do not have legal authority until the patient has a terminal condition and is unable to speak for him/herself or s/he becomes permanently unconscious.***

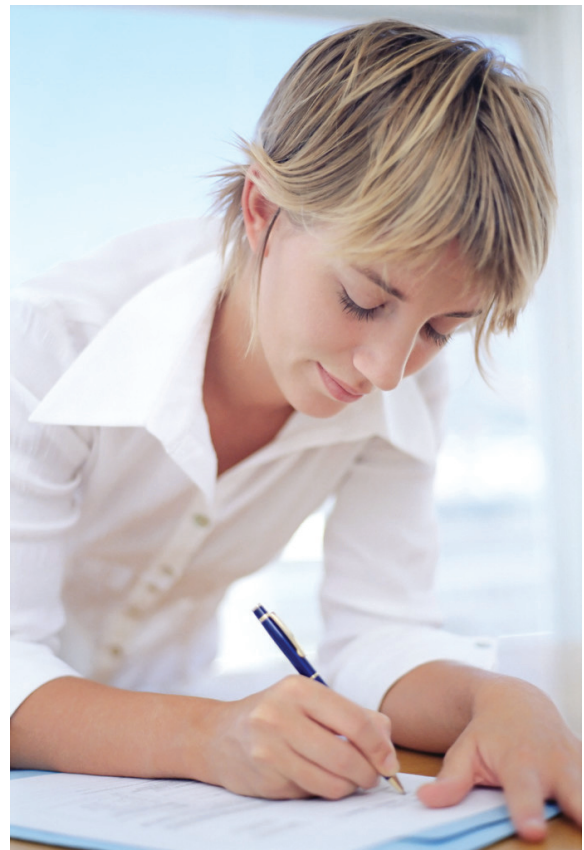
The durable power of attorney for healthcare is active for all other medical decisions whenever you are unable to make decisions for yourself.

### 3. Must a physician honor my advance directive?

Yes, your physician must honor your advance directive; if he or she is unable to, then he or she is required to try to transfer your care to a physician who can.

### 4. What if I change my mind?

*You can change or cancel your advance directive at any time.* Make sure you tell your doctors, health care workers, hospital, and friends that your wishes have changed. Ask them to tear up and destroy old copies.



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### 5. What role does my family play in making medical decisions?

Family can play many important roles in health care decision making. You can involve any family member or friend in your health care decisions, but it is best to let your doctor and other health care workers know who is allowed to be informed of your condition as well as what roles everyone is to perform. You can determine who in your family (or even a friend) should be a decision maker for you by assigning that person to be your durable power of attorney for healthcare (for general medical decisions) and/or health care proxy (for life-sustaining treatment decisions).

If no person is specifically assigned in an advance directive to be your health care proxy, Arkansas law requires that for life-sustaining treatment decisions doctors look to the following people (if available and in the specific order listed):

- (1) A legal guardian of the patient, if one has been appointed;
- (2) In the case of an unmarried patient under the age of eighteen (18), the parents of the patient;
- (3) The patient's spouse;
- (4) The patient's adult child or, if there is more than one (1), then a majority of the patient's adult children participating in the decision;
- (5) The parents of a patient over the age of eighteen (18);
- (6) The patient's adult sibling or, if there is more than one (1), then a majority of the patient's adult siblings participating in the decision;
- (7) Persons standing in loco parentis to the patient; or
- (8) A majority of the patient's adult heirs at law who participate in the decision.

### 6. Are fluids and nutrition considered "life-sustaining treatments"?

The short answer is "yes": fluids and nutrition (IVs and feeding tubes) are considered forms of life-sustaining treatments for the purpose of end-of-life decision making. What this means is that you (or your health care proxy) are allowed to request continued fluids and hydration or you (or your health care proxy) may request that they be discontinued. Like any treatment decision, it is important not only to state what you want or don't want, but why and under what conditions. Also, like any treatment decision, you can change your mind, so long as you clearly make your wishes known.

### 7. In an emergency, how will my advance directive be used?

Remember, living wills and health care proxies are legally recognized *only* when you are permanently unconscious or have a terminal condition and are unable to speak for yourself. In most cases, physicians need some time to determine whether or not you would meet one of these two conditions. So, many treatments may be started in order to evaluate your condition, but these treatments can be stopped if it is determined that you meet one of the two conditions (permanently unconscious or terminally ill) and stopping treatment is what you would want according to your living will or health care proxy.

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Revised 3/09

(Place MR Label Here)

MR#:

Patient's Name:

Patient's Address:

**Living Will Declaration**

**By**

\_\_\_\_\_  
*(Name of person signing document)*

If I am terminally ill or permanently unconscious, and I am not able to make decisions about my medical treatment, I direct my physician to withhold or withdraw treatment that prolongs the process of my dying and is not necessary to my comfort. Specifically, if I am terminally ill or permanently unconscious, I direct my physician to withhold or withdraw treatment that only prolongs the process of dying and is not necessary to my comfort or to alleviate pain. This includes:

- |  |  |
|--|--|
| <input type="checkbox"/> antibiotics         | <input type="checkbox"/> kidney dialysis   |
| <input type="checkbox"/> surgery             | <input type="checkbox"/> CPR               |
| <input type="checkbox"/> blood products      | <input type="checkbox"/> breathing machine |
| <input type="checkbox"/> nutrition/hydration |  |

This document is intended to be a Living Will under the Arkansas Rights of the Terminally Ill or Permanently Unconscious Act.

Signed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
*Signature of person*

**Witnesses**

The declarant voluntarily signed this writing in my presence.

\_\_\_\_\_  
*Signature of Witness*

\_\_\_\_\_  
*Signature of Witness*

\_\_\_\_\_  
*Address*

\_\_\_\_\_  
*Address*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Date*



(Place MR Label Here)

MR#:

Patient's Name:

Patient's Address:

**Healthcare Proxy**

**Any time I am temporarily or permanently unable to make healthcare decisions, my healthcare proxy shall be:**

\_\_\_\_\_

*(Name of person)*

My healthcare proxy may make all decisions about:

- My personal care
- My medical care
- Hospitalization
- Whether I shall receive medical treatment or procedures including artificial feeding or fluids, even though I may die
- Visitors, if problems arise concerning visits by friends and family

Such decisions shall be consistent with my wishes, or, if my wishes are unknown, shall be consistent with my best interest.

This document is intended to be a durable power of attorney under A.C.A. 20-13-104 and a declaration and proxy statement under the Rights of the Terminally Ill or Permanently Unconscious Act.

You may add further instructions here:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Signed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_

*Signature of person*

***Witnesses***

The declarant voluntarily signed this writing in my presence.

\_\_\_\_\_

*Signature of Witness*

\_\_\_\_\_

*Signature of Witness*

\_\_\_\_\_

*Address*

\_\_\_\_\_

*Address*

\_\_\_\_\_

*Date*

\_\_\_\_\_

*Date*





(Place MR Label Here)

MR#:

Patient's Name:

Patient's Address:

**Optional Organ and Tissue Donation**

I, \_\_\_\_\_ do hereby authorize the donation  
(Name of person signing document)

for transplantation and/or medical research the following anatomical gifts:

- |                                       |   |
|---------------------------------------|---|
| <input type="checkbox"/> Body         | <input type="checkbox"/> Liver            |
| <input type="checkbox"/> Bone         | <input type="checkbox"/> Lung             |
| <input type="checkbox"/> Eyes         | <input type="checkbox"/> Pancreas         |
| <input type="checkbox"/> Heart        | <input type="checkbox"/> Skin             |
| <input type="checkbox"/> Heart Valves | <input type="checkbox"/> All of the above |
| <input type="checkbox"/> Kidneys      | <input type="checkbox"/> Other: _____     |

I further consent to the removal of any blood and tissue samples needed for lab tests. I also consent for the Procurement Coordinator and physicians to have access to medical records related to the donation.

Signed this \_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Signature of person

\_\_\_\_\_  
Address

**The declarant voluntarily signed this writing in my presence.**

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

