

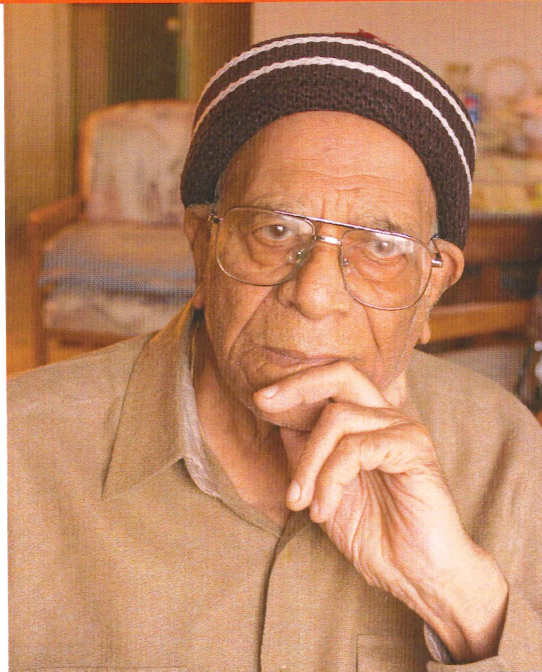
Planning for Incapacity

A SELF-HELP GUIDE

Advance Directive Forms | Maryland



MARYLAND
LEGAL AID



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This guide is an overview of basic legal concepts, not a substitute for a lawyer or an answer to every possible legal question. The laws touched on in this guide vary considerably from jurisdiction to jurisdiction, and they can change. Be sure to consult a lawyer knowledgeable about the current laws in your state or jurisdiction if you have a particular legal problem. This information should not be constructed as necessarily representing the policy or position of LCE, the AARP Foundation, American Hospital Association, American Bar Association, American Medical Association, Catholic Health Association, Maryland Department of Aging, Maryland Legal Aid, or Voluntary Hospitals of America. No official endorsement of these materials should be inferred.



NOTICE: The information contained in this publication is specific to Maryland law and practice as of September 2009. Before completing the form in the Appendix, please read this guide carefully, as well as the instructions with the form.

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(Former) National Legal Training Project
AARP Foundation
601 E Street, N.W., Washington, DC 20049
<http://www.aarp.org>

Marcy Gouge, Esq.
National Program Manager, NLTP

Ana Torres-Davis, Esq.
NLTP Materials Attorney

Imani Woody, M.H.S.
NLTP Training Specialist

Marie L. Hubbard
Sr. Admin. Assoc.

Pamela D. Johnson
Sr. Admin. Tech.

What are Advance Directives, and Who Needs Them?

Beth is in a nursing home with Alzheimer's disease, which causes her to be confused and disoriented. She falls, fractures her hip, and now requires a hip replacement. Since she is unable to make the decision, who will consent to the treatment?

In most health care situations, you have the right to make decisions about your medical treatment. Based on the information you receive, as well as your values and beliefs, you must weigh the risks and benefits of the proposed treatment, the likelihood of success, and any alternative course of treatment. Ultimately you decide which treatments you want and which ones to refuse. However, there may be a time when your illness, injury, or disability prevents you from being able to make your own decisions. Even if *you* are unable to make the decision, a decision will still be made. The issue becomes how much control you wish to exert over those decisions.

Recent advances in technology have increased the ability of the medical profession to extend life where formerly an individual might have died. Many people are increasingly concerned about the *quality* of the life that they will experience as the result of these advances in medical technology. This is particularly the case where an individual is mentally or physically incapacitated and unable to make decisions about medical care. Others feel that these procedures provide additional possibilities for survival. In either case, difficult choices must be made.

Courts have almost always followed the expressed wishes of competent adults. A competent adult can communicate preferences about future medical treatment through legal documents called **advance directives**. By using **advance directives**, you can control your healthcare decisions, even if you become incapacitated in the future. You prepare the **advance directives** while you are capable of making your own decisions. Generally, they take the form of instructions to your doctor, or appointment of someone to make decisions for you. They can cover specific treatments such as life-sustaining procedures, or be very general and cover any medical decisions.

An **advance directive** allows you to participate in decisions such as:

- choosing healthcare providers (doctors, nurses, home health aides);
- deciding who can have access to your medical records;
- choosing the type of medical treatment you will receive;
- consenting to or refusing certain types of medical treatment; and
- choosing the person who will make decisions for you when you are unable to do so.

Should I have an advance directive?

In most cases, yes. Clearly, if you have the capacity to decide, you have the right to make choices. However, if you are unable to make your own medical treatment decisions, someone

else will decide for you. **Advance directives** allow you to control your healthcare decisions even when you become incapacitated. To limit certain types of treatment, you need an **advance directive**. To be sure that you will receive certain types of treatment (subject to medical necessity), you need an **advance directive**. If you want to choose who will decide for you when you are unable to decide for yourself, you need an **advance directive**.

If you don't have an **advance directive** and later you can't speak for yourself, then usually your next of kin will make healthcare decisions for you. But even if you want your next of kin to make decisions for you, an **advance directive** can make things easier for your loved ones by helping to prevent misunderstandings or arguments about your care.

Advance Directives in Maryland: A Guide to Maryland Law on Health Care Decisions

Your Right To Decide

Adults can decide for themselves whether they want medical treatment. This right to decide (to say yes or no to proposed treatment) applies to treatments that extend life, like a breathing machine or a feeding tube. Tragically, accident or illness can take away a person's ability to make health care decisions. But decisions still have to be made. If you cannot do so, someone else will. These decisions should reflect your own values and priorities.

A Maryland law called the Health Care Decisions Act says that you can do health care planning through “**advance directives**.” An **advance directive** can be used to name a health care **agent**. This is someone you trust to make health care decisions for you. An **advance directive** can also be used to say what your preferences are about treatments that might be used to sustain your life.

The State offers a form to do this planning, included with this guide (see Appendices). The form as a whole is called “Maryland Advance Directive: Planning for Future Health Care Decisions.” It has three parts: Part I - Selection of Health Care Agent; Part II - Treatment Preferences (“Living Will”); and Part III - Signature and Witnesses.

The **advance directive** is meant to reflect your preferences. You may complete all of it, or only part, and you may change the wording. You are not required by law to use these forms. Different forms, written the way you want, may also be used. For example, one widely praised form, called “Five Wishes,” developed by the nonprofit organization Aging With Dignity is available for free from the Maryland Department of Aging (see page 17 for contact information). For a small fee, you can also get “Five Wishes” from the Internet at www.agingwithdignity.org or write to: Aging with Dignity, P.O. Box 1661, Tallahassee, FL 32302.

This optional form can be filled out without going to a lawyer. But if there is anything you do not understand about the law or your rights, you might want to talk with a lawyer. You can also ask your doctor to explain the medical issues, including the potential benefits or risks to you of various options. You should tell your doctor that you made an **advance directive** and give your doctor a copy, along with others who could be involved in making these decisions for you in the future.

This guide also contains a separate form called “After My Death” (see Appendices). Like the **advance directive**, using it is optional. This form has four parts to it: Part I, Organ Donation; Part II, Donation of Body; Part III, Disposition of Body and Funeral Arrangements; and Part IV, Signature and Witnesses.

Once you make an **advance directive**, it remains in effect unless you revoke it. It does not expire, and neither your family nor anyone except you can change it. You should review what you've done once in a while. Things might change in your life, or your attitudes might change. You are free to amend or revoke an **advance directive** at any time, as long as you still have decision making capacity. Tell your doctor and anyone else who has a copy of your **advance directive** if you amend it or revoke it.

If you already have a prior Maryland **advance directive, living will**, or a durable power of attorney for health care, that document is still effective, if valid when made. Also, if you made a valid **advance directive** in another state, it is valid in Maryland. However, you may want to review these documents to see if you need to make changes with a new **advance directive**.

Health Care Power of Attorney

Part I of the Advance Directive: Selection of Health Care Agent

You can name anyone you want (except, in general, someone who works for a health care facility where you are receiving care) to be your health care **agent**. **To name a health care agent, use Part I of the advance directive form.** (Some people refer to this kind of **advance directive** as a “durable power of attorney for health care.”) Your **agent** will speak for you and make decisions based on what you would want done or your best interests. You decide how much power your **agent** will have to make health care decisions. You can also decide when you want your **agent** to have this power right away, or only after a doctor says that you are not able to decide for yourself. You can pick a family member as a health care **agent**, but you don't have to. Remember, your **agent** will have the power to make important treatment decisions, even if other people close to you might urge a different decision. Choose the person best qualified to be your health care **agent**. Also, consider picking one or two backup agents, in case your first choice isn't available when needed. Be sure to inform your chosen person and backups, and make sure that he or she understands what's most important to you. When the time comes for decisions, your health care **agent** should follow your written directions.

The Maryland Attorney General's office has a helpful guide that you can give to your health care **agent**. It is called “Making Medical Decisions for Someone Else: A Maryland Handbook.” You or your **agent** can get a copy on the Internet by visiting the Attorney General's home page at www.oag.state.md.us, clicking on “Advance Directives/Living Wills,” and then clicking on “Guidance for Health Care Proxies.” You can also request a copy by calling 410-576-7000 or 1-888-743-0023 (toll-free).

The form included with this guide does not give anyone power to handle your money. We do not have a standard form for appointing an **agent** to handle financial matters. Talk to a lawyer about planning for financial issues in case of incapacity.

Living will

Part II of the Advance Directive: Treatment Preferences (“Living Will”)

You have the right to use an **advance directive** to say what you want about future **life-sustaining treatment** issues or medical interventions (see page 13). You can do this in Part II of the form. If you both name a health care **agent** and make decisions about treatment in an **advance directive**, it's important that you say (in Part II, paragraph G) whether you want your **agent** to be strictly bound by whatever treatment decisions you make.

Part II is a **living will**. It lets you decide about life-sustaining procedures in three situations: when death from a **terminal condition** is imminent despite the application of life-sustaining procedures; a condition of permanent unconsciousness called a persistent vegetative state; and **end-stage condition**, which is an advanced, progressive, and incurable condition resulting in complete physical dependency. One example of **end-stage condition** could be advanced Alzheimer's disease.

Frequently Asked Questions (FAQs) about Advance Directives in Maryland

1. Who should I talk to about an **advance directive**?

In addition to putting your wishes in writing, it is just as important to discuss these issues with your family, doctor, spiritual advisor, and attorney. Although most healthcare decisions are fairly routine, decisions about **life-sustaining treatment**, experimental medical treatment, and organ donation are all issues that need to be discussed with others. These are decisions for which your wishes may not be known.

Talking about the possibility of becoming incapacitated is not easy. Often people discuss it only in the most general terms — “I don’t want to be a vegetable.” General statements are unlikely to provide enough information about your specific wishes to allow someone else to act on your behalf. In addition, you may find that your values and beliefs differ from those of your family, friends, spiritual advisor or doctor. By discussing these matters in advance you may eliminate any uncertainty about what decisions you would make. But remember, the ultimate decisions are YOUR decisions.

The first step -- Ask yourself the following questions:

- Who do you want to make decisions on your behalf?
- Are there certain, types of **life-sustaining treatments** you would want if you had a **terminal condition**?
- Are there **life-sustaining treatments** you would not want?
- Under what circumstances would you not want these treatments?
- If you had a choice, where do you want to die?

The next step -- Talk to family, friends, doctor, spiritual advisor and lawyer.

Talking to family and friends -- You may not be able to offer exact answers about treatment decisions. However, it is important to share your general values and beliefs. Is it important to you to be independent? Free of pain? Live as long as possible?

Talking to a doctor -- A doctor can explain the benefits and burdens of various types of **life-sustaining treatments**. You can discuss your medical treatment wishes and your beliefs about the quality of life you would wish to have under various situations.

Talking to a spiritual advisor -- Your spiritual advisor can provide guidance on the difficult ethical and moral questions that are part of making your decision.

Talking to a lawyer -- A lawyer can make sure that your **advance directive** reflects your desires and wishes as clearly as possible.

2. Must I use any particular form?

No. An optional form is provided, but you may change it or use a different form altogether. Of course, no health care provider may deny you care simply because you decided not to fill out a form.

3. Who can be my **agent**?

Your **agent** can be anyone who knows you well and whom you trust such as a spouse, relative, friend, or spiritual advisor. The **agent** should be an adult (at least 18 years old) and be able to make decisions. Also, you should nominate a backup or alternate **agent**, in case your first choice is unable or unwilling to make a healthcare decision.

The only people who cannot act as your **agent** are:

- A spouse, parent, child, or sibling of an owner, operator, or employee of a health care facility where you are receiving health care, or
- An owner, operator or employee of a health care facility where you are receiving care. However, such disqualified person can serve as your **agent** if the person: (a) would qualify as your surrogate decision maker (if your **agent** cannot be located) or (b) was appointed by you before the date that you received, or contracted to receive, health care from the facility.

4. What should I consider when choosing my **agent**?

The person you choose should be someone who knows your values, religious beliefs, and preferences about medical treatment. It is helpful if the person is in frequent contact with you and is geographically close to you. It is critical to discuss your medical treatment preferences with the person, even if he or she is someone who knows you well.

There are often significant differences in values, life experience and knowledge between people. It is essential that your **agent** understand your values and wishes and be willing to act upon them rather than their own preferences.

5. What kinds of decisions can my **agent** make?

The **agent** has general authority to make any healthcare decisions you could make unless you limit the **agent**'s authority. If you do not include any limitations in the document, the **agent** has the authority to:

- consent or refuse to consent to any care, treatment, service or procedure that will affect your physical or mental condition; and
- select your health care providers and select where you receive care and treatment.

Advance directive documents do not deal with financial matters. If you want to plan for how financial matters are handled if you lose capacity, talk to your lawyer.

6. How do I create an **advance directive**?

As long as you are competent, you may **execute** an **advance directive** at any time. Maryland law includes a sample form which is included in the Appendices of this publication. However,

the form is not mandatory. If you follow these steps, any document in which you grant another person authority to make healthcare decisions for you will be valid:

- The document must clearly state that the **agent** can make healthcare decisions.
- You must sign and date the document in the presence of two adult witnesses, who also sign.
- **Advance Directives** in Maryland do not have to be notarized. However, if you travel frequently to another state, check with a knowledgeable lawyer to see if that state requires notarization.

An oral **advance directive** shall have the same effect as a written **advance directive** if made in the presence of the attending physician and one witness and if the substance of the oral **advance directive** is documented as part of the individual's medical record. The documentation shall be dated and signed by the attending physician and the witness.

7. Who can witness an **advance directive**?

Two witnesses are needed. Generally, any competent adult can be a witness, including your doctor or other health care provider (but be aware that some facilities have a policy against their employees serving as witnesses). If you name a health care **agent**, that person cannot be a witness for your **advance directive**. Also, one of the two witnesses must be someone who will not receive money or property from your estate and is not the one you have named to handle your estate after your death.

8. Can I cancel my **advance directive**?

Yes. As long as you have the capacity to make a directive, you can also cancel your directive. You may cancel by a written cancellation that is signed and dated by you, by destroying all copies, by an oral statement to a health care practitioner, or by the execution of a new directive. In any case, make sure the revocation is included in your medical records.

9. Am I required to update my **advance directive**?

No. The law does not require you to update your **advance directive**. However, if you change your mind about a medical treatment that is mentioned in your directive, then you should **execute** a new directive to reflect the changes. If the treatment is not mentioned in your **advance directive**, you should express your wishes to your **agent**. If it is a major issue, such as life sustaining treatment, it should be added.

Review your **advance directive** periodically to make sure it continues to express your wishes about your medical treatment. You should periodically review whom you have named as your **agent** in case your situation changes and you want to name someone else.

10. When does an **advance directive** become effective?

Unless you otherwise provide in your directive, it becomes effective when your attending physician and a second physician certify in writing that you are **incapable of making an informed decision**.

11. To whom should I give copies of my **advance directive**?

Give copies to your doctor, your health care **agent** and backup **agent(s)**, hospital or nursing home if you will be staying there, and family members or friends who should know of your

wishes. Consider carrying a card in your wallet saying you have an **advance directive** and who to contact. A sample wallet card is included in this guide (see Appendices).

12. Can my health care **agent** or my family decide treatment issues differently from what I wrote?

It depends on how much flexibility you want to give. Some people want to give family members or others flexibility in applying the **living will**. Other people want it followed very strictly. Say what you want in Part II, Paragraph G.

13. Can my doctor override my **living will**?

Usually, no. However, a doctor is not required to provide a “medically ineffective” treatment even if a **living will** asks for it.

14. If I have an **advance directive**, do I also need an Emergency Medical Services (EMS) Palliative Care/Do Not Resuscitate Order?

Yes. If you don't want ambulance personnel to try to resuscitate you in the event of cardiac or respiratory arrest, you must have an EMS Palliative Care/**DNR Order** signed by your doctor.

15. Does the EMS Palliative Care/**DNR Order** have to be in a particular form?

Yes. Ambulance personnel have very little time to evaluate the situation and act appropriately. So, it is not practical to ask them to interpret documents that may vary in form and content. Instead, a standardized order form has been developed. Have your doctor or health care facility contact the Maryland Institute for Emergency Medical Services System at 410-706-4367 to obtain information on EMS Palliative Care/**DNR Orders**. An EMS/**DNR Order** is a physician's instruction to emergency medical personnel (911 responders) to provide **comfort care** instead of resuscitation. The EMS/**DNR Order** can be found on the Internet at: <http://www.miemss.org>. From that page, click on “Forms.”

16. How do I become an organ donor?

Maryland provides detailed organ donation options. The organ donation sections, Part I of the “After My Death” form (see Appendices), follow the **advance directive** and must be witnessed in the same manner

17. What about donating my body for medical education or research?

Part II of the “After My Death” form (see Appendices) is a general statement of these wishes. The State Anatomy Board has a specific donation program, with a pre-registration form available. Call the Anatomy Board at 1-877-463-3464 for that form and additional information.

18. Can I be required to sign an **advance directive** as a condition for admission to a healthcare facility?

No. A hospital or nursing home cannot refuse to admit you because you have not signed an **advance directive**. If any health care facility tries to force you to sign an **advance directive**;

you should contact the Medicare or Medicaid licensing agency in your state. On the other hand, if you have signed an **advance directive** the hospital or nursing home must advise you, at the time of admission, about any policies it has that would prevent it from carrying out your expressed wishes.

19. If I move to another state, will my **advance directive** be valid?

Maryland recognizes **advance directives** that were validly **executed** in another state. However, the legal requirements for **advance directives** vary from state to state. Most states specifically recognize **advance directives** that were validly **executed** in another state. In other states the law about recognizing directives signed in other states is unclear.

If you want to be absolutely safe when you move to another state, it is a good idea to complete a new document that meets the requirements of the law in that state. You can also carry a wallet card indicating that you have signed a health care directive and how to get in touch with your **agent**. Although this precaution may not guarantee that your wishes will be carried out, having an **advance directive** and a wallet card will go far in letting others know of your wishes. A wallet card is provided at the end of the Appendices section of this guide.

20. How can I get **advance directive** forms for another state?

Contact Caring Connections, a program of the National Hospice and Palliative Care Organization (NHPCO), at 1-800-658-8898 (Multilingual Line: 1-877-658-8896) or on the Internet at: <http://www.caringinfo.org>.

21. Does the federal law on medical records privacy (HIPAA) require special language about my health care **agent**?

Special language is not required, but it is a good idea to have some. Language about HIPAA has been incorporated into the form in this guide.

22. Is there an **advance directive** for Mental Health Treatment?

Yes. The Maryland Department of Health and Mental Hygiene makes available an **advance directive** focused on preferences about mental health treatment. This can be found on the Internet at: <http://dhmh.state.md.us/mha/forms.html>. You can also call 1-800-888-1965 for help.

23. Are there other Maryland forms to declare my health care decisions?

Yes. A new form, called the “Instructions on Current Life-Sustaining Treatment Options” form (LST Form), can be used if you are *already* seriously ill. The LST Form, allows you to decide about specific *current* medical treatment issues. It is signed by you (or your **agent**), your health care provider, and your doctor. By itself, the LST Form is not a physician’s order, but should be reviewed prior to the entry of new orders.

Download the “Explanatory Guide for Patients” on the Maryland Attorney General’s website at http://www.oag.state.md.us/Healthpol/LST%20Options_explanatory_patients.pdf for further information about the LST Form.

Practical Tips

What practical steps can I take to be sure that my **advance directive** is followed?

Even *with* an **advance directive**, there is no guarantee that your wishes will be followed. Medical technology continues to change and the law can be uncertain about your rights under various circumstances. Treatment issues may develop that differ from the situations you anticipated in your **advance directive**.

However, you *can* increase the chances that your wishes will be followed by taking the following steps.

- Talk with your doctor, both before and after you **execute** an **advance directive**. See Section III for issues to discuss with your doctor.
- Discuss your values and philosophy, as well as specific treatment preferences, with your **agent**. Also, discuss with your **agent** how to work with anyone who might object to the choices you have made.
- Make sure that the **advance directive** is available when needed.
- Discuss the fact that you have **executed** the **advance directive** with your family, friends or spiritual advisor -- anyone who is likely to be involved if you become unable to make a health care decision.
- Carry a wallet card like the one provided in the Appendices of this guide.
- If you enter a hospital or nursing home, you should be given a copy of its policy about **advance directives**. If you do not receive this information, ask for a written copy of its policies and procedures. Check the policy to make sure the facility will honor your **advance directive**.
- Review your **advance directive** every year or two to decide if anything in your life has changed that would require you to change your **advance directive**.

How can I make sure that the document will be available if I need it?

You should make multiple copies of your **advance directive**. At the minimum you should have two copies for yourself, a copy for each of your doctors, and one for your **agent**, if you have chosen one.

You should keep your copies in a safe, accessible location where someone who knows you can readily find them. It is a good idea to tell friends and family where you put the document.

The copy for your doctor should be made a part of your medical record. Give a copy to your family doctor and any specialists you see regularly. If you have five specialists, give a copy to each one!

Carry the wallet card you will find at the end of this guide. Plan for how a copy of your **advance directive** can be obtained if you are injured or become ill while you are away from home.

If you enter a hospital or nursing home, request that a copy be included in your medical record and your wishes noted on your chart.

When should I talk to my **agent**?

You should speak with your **agent** both before and after you complete the **advance directive**. Make sure that your **agent** understands your specific wishes as well as your general philosophy and beliefs. You should also be sure that your **agent** will be able to and comfortable about carrying out your wishes.

After you have signed your **advance directive**, you may wish to talk about how your **agent** will be notified if you suddenly become incapacitated. You should tell your other friends, family, or doctors who your **agent** is.

Where can my **agent** find additional resources to help him or her fulfill their duties?

The Maryland Attorney General's Office has created a separate guide for health care agents. The guide is called: "Making Medical Decisions for Someone Else: A Maryland Handbook." You or your **agent** can get a copy on the Internet by visiting the Attorney General's home page at www.oag.state.md.us, clicking on "Advance Directives/Living Wills," and then clicking on "Guidance for Health Care Proxies." You can also request a copy by calling 410-576-7000 or 1-888-743-0023 (toll-free).

Talking to Your Doctor

It's a good idea to talk to your doctor about your **advance directive** to: answer medical questions, to discuss your wishes, and to make sure your doctor will honor your wishes (if not, ask for a referral to another doctor).

What if I do not have a doctor?

You may wish to see a primary care doctor or gerontologist to discuss your **advance directive**.

If you decide to complete your **advance directive** before you have a chance to discuss it with a doctor, read this section to learn some common situations and treatments you will need to consider when preparing your **advance directive**.

If you enter a hospital, be sure to discuss your **advance directive** with the doctor treating you.

What if I already suffer from a chronic condition?

If you are suffering from a condition that may result in significant incapacity (such as cancer, Alzheimer's disease, diabetes or cardiovascular disease), it is wise to discuss possible complications with your doctor. Ask what types of treatment are typically used over the course of the condition. For example, amputation for gangrene may be a future issue if you are suffering from the complications of diabetes.

What is the difference between withholding and withdrawing medical treatment?

- Withholding treatment means not starting a treatment.
- Withdrawing treatment means stopping medical procedures that have begun.

The decision *not to start life-sustaining treatment* may seem different from *stopping* treatment after a doctor has determined that you will not recover. In any event, you have the right to have **life-sustaining treatment** either withheld or withdrawn. You may wish to talk to your doctor about a "trial of treatment" — that is, starting a treatment and stopping it later.

What types of medical conditions might affect my quality of life?

Quality of life is personal. An acceptable quality of life to someone else may be a fate "worse than death" to you. You and your doctor should discuss which conditions that might affect your quality of life that you wish to cover in your **advance directive**.

- *Persistent vegetative state (PVS)* – A state of permanent unconsciousness that is irreversible. It may take one to six months or more to confirm a PVS diagnosis. Patients in PVS have had the centers in the brain that control, thinking, speaking, hunger, and thirst destroyed. PVS patients do retain reflexes such as random eye or muscle movements, yawning and response to touch or sound. However, they do not feel pain. It includes

patients with the appearance of wakefulness but excludes those who are more deeply comatose with eyes closed.

Generally PVS is not considered a *terminal* condition, and a PVS patient may live for years with the assistance of medical equipment/treatment. Patients in this condition may live for a long period of time as long as they are fed and given water artificially.

- *Irreversible coma* – A sleeplike (eyes closed) condition resulting from impairment of the brain stem. It is often used to include all possible degrees of impaired consciousness or unresponsiveness with the absence of eye opening.

Discuss with your doctor when a coma will be considered irreversible. Determining when a coma is irreversible may not always be a clear cut decision. It depends on the person's age and the reason for the coma. A majority of comatose adults who do not show signs of recovery at the end of a month are unlikely to recover at all. Some people want certain treatments stopped or withheld if they don't regain consciousness within a set time period.

- *Conscious but unable to communicate* – Some patients may be conscious but have a serious condition that affects their quality of life and ability to communicate their health care decisions. For example, the patient may have advanced Alzheimer's disease or significant physical deterioration following a major stroke. There may be a drug induced inability to communicate such as that experienced by some cancer patients receiving extremely strong pain medication.
- *Near death* – The patient may be dying soon, even with aggressive treatment.

What types of medical interventions might I wish to consider?

Should you become incapacitated, it may be necessary to use certain medical treatments to keep you alive. An **advance directive** allows you to refuse certain types of **life-sustaining treatment**. This guide describes some of the common types of **life-sustaining treatments** you may wish to include in your **advance directive**. Your doctor can offer more detailed information and discuss the options with you.

- *Respirator or ventilator* – A **respirator** takes over the role of the chest muscles to allow a patient with severe breathing problems to breathe. A tube is placed down the throat into the wind pipe. With the tube in place, it is not possible to talk or eat. Even for the patient with irreversible diseases or paralysis affecting breathing, mechanical ventilation offers the possibility for prolonged life. The need for a **respirator** may be permanent or temporary.
- *Cardiopulmonary Resuscitation (CPR)* – A number of medical devices and procedures can be used to restore and maintain blood circulation and breathing in a person whose heart and/or breathing has stopped. These can include pumping on the chest, artificial breathing, and sometimes medications and/or electric shock. When a person's heart stops beating or beats so poorly that blood circulation is not enough to supply the brain with oxygen and nutrients, the brain is irreversibly damaged within minutes. Spontaneous breathing cannot be recovered and death follows quickly. CPR offers a way to reverse the immediate threat to life. However, unlike most television dramas, CPR is rarely successful for critically ill elderly patients. Even if the patient is revived, the patient *may* have brain damage or broken bones,

and may need a **respirator** for a few days or even permanently. CPR can be administered by nondoctors and is required to be used by ambulance medics or other healthcare workers who respond to emergencies.

- *Kidney dialysis* – This procedure removes impurities from blood in patients whose kidneys have failed. Healthy kidneys regulate the body’s water and salts and remove the excess as urine. They also produce and release hormones into the blood stream that control vital functions such as blood pressure and red blood cell production. In dialysis the patient’s blood is pumped into a dialyzer where the impurities are removed, then returned to the patient. Dialysis offers an effective artificial way to perform some kidney functions and remove excess fluid. Some people remain on dialysis for years.
- *Medications* – Medications used in chemotherapy or antibiotics may be necessary to sustain life. Antibiotics are used to treat a variety of infections. Common types of life-threatening infections include pneumonia, urinary tract infections and infected decubitus ulcers (bed or pressure sores). Antibiotics are usually effective in treating infections, but cannot cure underlying diseases or disabling conditions. Some types of untreated pneumonia can bring a fairly comfortable death within a short time. Your preference regarding antibiotics may depend upon whether the antibiotics can *cure* an acute, mild infection and return you to a stable condition, or whether they only slow down an inevitable deterioration of your condition.
- *Artificial nutrition and hydration* – Food and water can be administered by tube to patients unable to take it orally. People physically unable to swallow food and fluids by mouth are at obvious risk of malnutrition, dehydration, and death. Feeding can be provided through a tube that is put down the nose to the stomach, surgically inserted through the belly wall to the stomach or small intestines, or inserted through the skin to a blood vessel. Some people fear that withdrawing nutrition and hydration will cause suffering. The prevailing medical opinion is that, unless a patient could take food and water by mouth, dehydration and inadequate nutrition has an anesthetizing effect. For a person in a persistent vegetative state, there will not be any discomfort. For a terminally ill person, any discomfort is unlikely and may be relieved by rubbing the lips with glycerin or placing crushed ice on the lips to relieve dryness.

Even if you chose to limit some **life-sustaining treatments**, you can still receive medical care to relieve pain and ensure your physical and emotional comfort. Pain relief is a very important issue to discuss with your doctor. There is some overlap between medical interventions to sustain life and those designed to offer **comfort care**. For example, treatment of infections with antibiotics may relieve discomfort *and* prolong life.

Glossary

advance directive:	a generic term for legal documents (such as a living will or Medical Durable Power of Attorney) or oral directive that indicate your preferences for medical treatment in the event you become unable to make your own decisions.
agent:	the person you choose to make decisions on your behalf. The agent is the person designated in a Medical Durable Power of Attorney or oral directive to act for the declarant . This person may also be called the “attorney-in-fact.”
chronic condition:	a condition that may result in significant ongoing incapacity.
comfort care:	treatment or care which does not restore health but relieves pain, or eases (but not reverses) the dying process. Some comfort care treatments may also prolong life.
declarant:	a person who executes an advance directive . The person must be capable of making his or her own healthcare decisions when the advance directive is executed .
do-not-resuscitate (DNR) order:	an order to withhold cardiopulmonary resuscitation (CPR). Also called “no code.”
end-stage condition:	an advanced, progressive, irreversible condition caused by injury, disease, or illness that has caused severe and permanent deterioration indicated by incompetency and complete physical dependency, and for which, to a reasonable degree of medical certainty, treatment of the irreversible condition would be medically ineffective.
execute:	following the guidelines set down in the law for completing a document that is legally enforceable. This may include procedures such as having witnesses to your signature.
health care power of attorney:	a written advance directive that empowers a designated person (called an agent) to make health care decisions for the declarant . The declarant may choose to allow the agent to make decisions immediately after the document is signed, or only when the declarant is incapable of making an informed decision (see paragraph H, page 4 of the Advance directive in the Appendices).
incapable of making an informed decision:	the inability to make an informed decision about treatment because the patient is unable to understand the nature, extent, or probable consequences of the proposed treatment; is unable to make a rational evaluation of the burdens, risks, and benefits of the treatment or course of treatment; or is unable to communicate a decision.

life-sustaining treatment:

drugs, medical devices, or procedures that can keep someone alive who would otherwise die within a short (though usually uncertain) time.

living will:

a written **advance directive** which states an individual's views about the use of **life-sustaining treatment** when he or she is no longer able to make a healthcare decision and diagnosed as terminally ill, in a persistent vegetative state, or in an **end-stage condition**.

respirator:

also called a ventilator, it refers to a mechanical device that uses a tube through the nose or throat to assist breathing. "Ventilator" is the term preferred by healthcare professionals.

terminal condition:

Different state laws define a "terminal" condition differently. In Maryland, the law defines it as an incurable or irreversible condition for which the administration of life-sustaining procedures will serve only to postpone the moment of Death.

Resources

Although your doctor should be your primary source of information about **advance directives**, a number of other resources may be of assistance to you.

Community Resources

Many hospitals and nursing homes have ethics committees who deal with the issues involved in **advance directives**. Some committees produce educational materials for the public. Look in the yellow pages for the telephone number of local health care facilities and call to see if they have an ethics committee or any publications.

Maryland Resources

Maryland Legal Aid's Senior Legal Helpline

www.mdlab.org

500 E. Lexington Street

Baltimore, MD 21202

410-951-7750 or 1-800-896-4213 ext. 7750

Hours: Monday, Tuesday, Wednesday and Friday 9:30 a.m. to 3:00 p.m.

Thursday 9:30 a.m. to 1:00 p.m. and 6:00 p.m. to 8:00 p.m.

Free telephone advice and services for people living in Maryland aged 60 years or older.

Lawyers provide legal advice, limited document review, or may offer referrals to another lawyer or to an appropriate public or private agency.

Maryland Attorney General's Office

www.oag.state.md.us

200 St. Paul Place

Baltimore, MD 21202

410-576-6300 or 1-888-743-0023 toll-free / TDD: 410-576-6372

*Provides copies of the **advance directive** forms that are included in the Appendices as well as the Proxy Guide and other general resources and information on **Advance Directives**.*

Maryland Department of Aging

www.mdoa.state.md.us

301 W. Preston Street, Suite 1007

Baltimore, MD 21202-2374

1-800-243-3425

*Provides a free copy of a plain language **advance directive** called "Five Wishes."*

Montgomery County Coalition on End-of-Life Care

www.mccelc.org

*Offers versions of the Maryland **advance directive** in Spanish, Chinese, French, Korean, Russian, and Vietnamese. These forms are available on the Internet at www.mccelc.org (click on "Forms").*

National Resources

1. Americans for Better Care of the Dying

www.abcd-caring.org
3720 Upton Street, Room B147
Washington, DC 20016
202-895-2660

Offers the online version of "Handbook for Mortals" which includes topics such as, for going medical treatment, tube feeding, decisions about resuscitation, decisions about ventilation, and dying suddenly.

2. Compassion & Choices

www.compassionindying.org
and www.endoflifechoices.org
1-800-247-7421

*A merger of two organizations: End-of-Life Choices and Compassion in Dying that provide **advance directives** and information on end of life issues.*

3. In Your Hands: The Tools for Preserving Personal Autonomy (video)

Commission on Law and Aging
American Bar Association
740 15th Street, N.W., Floor 8
Washington, DC 20005-1022
202-662-8690; Fax: 202-662-8698

*This video explains the need for making **advance directives**. Copies may be purchased from the American Bar Association for \$86 (including shipping) and that price includes a Program Guide along with 50 viewer booklets, "Health and Financial Decisions: Legal Tools for Preserving Your Personal Autonomy."*

4. The Medical Directive

www.medicaldirective.org
1037 Michigan Ave.
Evanston, IL 60202

*A comprehensive living will that uses four medical situations to illustrate when **advance directives** may be necessary.*

5. Values History

www.euthanasia.cc/vh.html
New Mexico School of Law
1117 Stanford, N.E.
Albuquerque, NM 87131
505-277-5006

*A non-legal document that suggests topics to be considered before formulating an **advance directive**, such as preferences about independence and control, attitudes towards health, illness and dying, religious beliefs and more.*

Appendices

• Sample Clauses

Below are some sample clauses you can use in your **health care power of attorney**. These examples may be modified to fit your particular needs and wishes.

a. General Clauses Regarding the Use of Life-Sustaining Treatment

- If I am ever diagnosed as having an incurable or irreversible condition from which death will occur within a short period of time, I do not want any life-sustaining procedures. I include artificial nutrition and hydration in my definition of life-sustaining procedures.
- If I am ever diagnosed as having an incurable or irreversible mental or physical condition and it has been determined that there is no reasonable expectation of recovery; I do not want any life-sustaining procedures. I want to be permitted to die naturally. I include artificial nutrition and hydration in my definition of life-sustaining procedures.
- I do not want my life to be artificially prolonged, unless there is some hope that both my mental and physical health will be restored. I do not want life-sustaining procedures provided or continued if the burdens of the treatment outweigh the benefits. In making this determination, I want my **agent** to consider the quality of my life if it is extended by these treatments.
- I want to live as long as possible, therefore I want any and all medical treatment (including life-sustaining procedures) that will extend my life and postpone my death.

b. Use of Life-Sustaining Treatment in Terminal Condition

- If I am ever diagnosed as having a **terminal condition**, I do not want the following types of life-sustaining procedures: mechanical ventilators or **respirators**; cardiopulmonary resuscitation; kidney dialysis; antibiotic therapy; and artificial nutrition and hydration.
- If I am ever diagnosed as having a **terminal condition**, I do not want life-sustaining procedures. I do not want artificial nutrition and hydration included among the life-sustaining procedures that may be withheld or withdrawn.

c. Use of Life-Sustaining Treatment in Persistent Vegetative State or Irreversible Coma

- If I am in a coma that my doctor has reasonably concluded to be irreversible, I direct that life-sustaining procedures be withheld or withdrawn. I specifically include artificial nutrition and hydration in my definition of life-sustaining procedures.
- If I am in a persistent vegetative state for more than 60 days after my doctor has diagnosed the condition, I direct that life-sustaining procedures be withheld or withdrawn. I intend to include artificial nutrition and hydration in my definition of life-sustaining procedures.

- If I am ever diagnosed as being in a persistent vegetative state or irreversible coma, and my death is not expected to occur within 60 days if I am administered life-sustaining procedures, then I want any and all medical treatment (including artificial nutrition and hydration) that will extend my life and postpone my death.

d. Use of Life-Sustaining Treatment When Conscious with Brain Damage

- If I have brain damage or a brain disease that makes me unable to recognize people or speak and there is no hope that my condition will improve, I do not want life-sustaining procedures. I intend to include artificial nutrition and hydration in my definition of life-sustaining procedures.

e. Blood Transfusions

- If my doctor determines that I need a blood transfusion or blood products, it is my choice, based on my religious beliefs and regardless of my condition, that such treatment absolutely not be provided, even if the lack of treatment ultimately will lead to my death.

f. Chemotherapy and Radiation

- If I am diagnosed as having incurable cancer and there is no hope that my condition will improve, and further chemotherapy and radiation serve only to prolong my life for a short time I direct that all chemotherapy and radiation be withheld or discontinued, unless and only if it serves to provide me with **comfort care** or to alleviate pain.

g. Desire to Remain at Home

- If at all possible, and the costs are not unduly burdensome, I declare that I want to die at home (or at least remain at home as long as possible) with appropriate medical, nursing, social, and emotional support and any medical equipment or treatment needed to keep me comfortable.
- I authorize my **agent** to take whatever steps are necessary or advisable to enable me to remain in my home as long as it is reasonable under the circumstances. Specifically, I do not want to be hospitalized or placed in a nursing home as long as it is reasonable to maintain me in my home.

h. General Authority for Agent

- My **agent** shall determine if life-sustaining procedures, services and procedures (including artificial nutrition and hydration) shall be withheld or withdrawn. I do not want treatment to be provided or continued if the burdens outweigh the expected benefits. My **agent** shall consider the quality of my life with the treatment, the relief from suffering, and the preservation or restoration of my abilities to function physically and mentally.
- My **agent** is authorized to request or consent to the writing of a “No Code” or “**Do Not Resuscitate**” order by any doctor.



MARYLAND
LEGAL AID



The AARP Foundation is AARP's affiliated charity. Foundation programs provide security, protection and empowerment for older persons in need. Low-income older workers receive the job training and placement they need to re-join the workforce. Free tax assistance and preparation is provided for low- and moderate-income individuals, with special attention to those 60 and older. The Foundation's litigation staff protects the legal rights of older Americans in critical health, long-term care, consumer and employment situations. Additional programs provide information, education and services to ensure that people over 50 lead lives of independence, dignity and purpose. Foundation programs are funded by grants, tax-deductible contributions and AARP.



601 E Street, NW
Washington, DC 20049
www.aarp.org/foundation
1-888-OUR AARP (888-687-2277)