

# Who Decides When You Are Unable?

## A Patient Guide to Advance Directives—Illinois Durable Power of Attorney for Healthcare, Living Will, and Illinois Health Care Surrogate Act.

### What is an Advance Directive?

An *“Advance Directive”* is a written document, which you complete in advance about how you want medical decisions made in the event you are unable. The two most common forms of Advance Directive are *“Illinois Durable Power of Attorney for Healthcare”* and a *“Living Will”*.

### What is a Living Will?

A *“Living Will”* is a legal document that any adult 18 years of age or older may sign stating that they *“do”* or *“do not”* want death-delaying procedures used if they develop a terminal condition. A *“terminal condition”* is an incurable and irreversible condition, such that death is imminent and the use of death-delaying procedures serves only to prolong the dying process.

### What is a Durable Power of Attorney for Healthcare?

A *“Durable Power of Attorney for Healthcare”* is a signed and witnessed legal document in which you being an adult 18 years of age or older, may name a person (agent) to make healthcare decisions for you if you are unable to make them for yourself. Your agent has the power to authorize and refuse medical treatment for you. This power is only effective if at any time you are not competent to make healthcare decisions for yourself. Your agent must be an adult 18 years of age or older whom you trust, and you have made aware of your beliefs and wishes regarding medical treatment. Your agent should also be aware of your medical conditions, but may not be involved in your medical care (i.e., your doctor, nurse, or other healthcare professionals). A successor agent may be named in the event your agent is unwilling or unable to make your healthcare decisions.

### What are the powers of the agent under a Durable Power of Attorney for Healthcare?

The powers of an agent can be as broad or as limited as you desire. This may include the right to be informed, consent to, refuse, or withdraw any type of health care such as:

- Surgical Procedures
- Blood Administration
- Life Support Systems

### How are the Living Will and Durable Power of Attorney different?

The *“Living Will”* applies to the treatment of patients who have an incurable illness, when death is imminent, and life-sustaining procedures would only postpone the moment of death. The *“Illinois Durable Power of Attorney for Healthcare”* is a legal document that allows a person to place in writing his or her wishes regarding healthcare decisions. The *“Illinois Durable Power of Attorney for Healthcare”* allow you to name an agent to make healthcare decisions on your behalf should you become incapacitated. Your agent has full authority to consent or refuse any type of healthcare or medical treatment. Your agent can also direct the withdrawal of nutrition and hydration. However, the *“Living Will”* does not allow the withdrawal of nutrition or hydration, if by doing so, would be the sole cause of your death.

### Who needs to know that I have executed an Advanced Directive?

Your doctor, relatives, and/or agent should know that you have signed an Advance Directive. The document should be kept readily available in the event of an emergency.

**\*Note:** If you should become hospitalized, the document should be brought with you so that a copy can be placed permanently in your medical record.

### What if I change my mind?

You can cancel your Advance Directive at any time by notifying your healthcare provider of your decision. Should you decide to cancel, it is best to notify in writing any person who has been given a copy of your Advance Directive.

## **What if I fill out an Advanced Directive in one State and I am hospitalized in a different State?**

The law honoring *Advance Directives* from another State is unclear. An *Advance Directive* tells your wishes regarding medical care, and it may be honored wherever you are if it is made known. However, if you spend a great deal of time in more than one State, you may wish to consider executing an Advance Directive from each State.

## **Where can I obtain a Durable Power of Attorney or Living Will form?**

*The Illinois Statutory Short Forms* can be obtained from most lawyers or by calling Provena Saint Joseph Hospital's Pastoral Care Department at (847) 695-3200 ext. 5767.

## **Who can help me create an Advance Directive?**

It is advisable to begin by talking to someone who knows you and can help you express your values and wishes regarding healthcare. You may also wish to talk with your lawyer; however, it is not necessary to seek legal advice or notarization for either of these documents.

## **What if I have not signed any Advance Directive of any kind?**

*The Illinois Healthcare Surrogate Act* applies in this situation. If your attending physician determines that you do not have the ability to understand and appreciate the nature of, or consequences of a decision regarding your medical treatment, then the attending physician will pick someone to make medical decisions for you. The person/surrogate picked shall make decisions based on what they feel you would have done under the circumstances.

The surrogate may consent to a "DNR" (Do Not Resuscitate) order that you or your doctor have previously signed. If your surrogate cannot determine what you would have wanted—the decision will be made based on what is in your best interest. Your surrogate shall be picked in the following order of priority if they are available:

1. The legal guardian of your person
2. Your spouse
3. Any of your adult children
4. Either of your parents
5. Any of your adult brothers or sisters
6. Any of your adult grandchildren
7. A close friend
8. The legal guardian of your estate

Your surrogate may not decide to forego life-sustaining treatment unless your attending physician determines that you suffer from a terminal condition with no reasonable prospect for cure or recovery, or if you are permanently unconscious, suffer from an incurable and irreversible condition that will impose severe pain, or an inhuman burden on you that far outweighs starting or continuing life-sustaining treatment.

The staff members at Provena Saint Joseph Hospital believe that competent adults have the right to make decisions regarding their healthcare.

- We also accept death, with peaceful dignity, as part of life's process.
- We at Provena Saint Joseph Hospital understand that healthcare decisions may not always be clearly defined.
- We try to provide in this pamphlet, answers to the commonly asked questions about Advance Directives— Illinois Durable Power of Attorney for Healthcare, Living Will, and Illinois Healthcare Surrogate Act. This pamphlet was developed for hospitalized patients.

Application of the provisions of Advance Directive documents may be limited outside of the acute healthcare facility. Members of the staff or the hospital Chaplains are available to answer questions or provide further information as needed to assist you with these very important decisions. Please call Pastoral Care at 847-695-3200 xt 5767 or dial "0" to have the on call Chaplain paged or call the Risk Manager at xt 5926.



77 N. Airlite Street  
Elgin, IL 60123  
(847) 695-3200