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**LEGAL SERVICES OF
NORTHERN VIRGINIA,
INC.**



**ADVANCE
DIRECTIVES IN
VIRGINIA**

(UPDATED 2014)



1. WHAT IS AN ADVANCE DIRECTIVE?

Many people are concerned about what would happen if, due to a mental or physical disorder, they could not tell their doctor what medical treatments they would or would not want. An Advance Directive is a statement, either written or oral, that allows you to state your health care preferences in advance in case you should ever become incapacitated.

Most Advance Directives include two sections. One section states your preferences for end-of-life medical treatment. This section is called a Living Will or a Health Care Declaration. The other section appoints someone to make general health care decisions for you if you become incapacitated and cannot make decisions for yourself. This section is called a Health Care Power of Attorney. Although a Health Care Declaration and a Health Care Power of Attorney usually occur together in one document called an Advance Directive, we will discuss each section separately. Also note that an Advance Directive can be revoked in whole or in part by you at any time if you wish to do so and are capable of understanding the nature of your actions.

2. WHAT IS THE HEALTH CARE DECISIONS ACT AND WHO SHOULD BE AWARE OF IT?

The Virginia Health Care Decisions Act is state law which permits adults to make advance directives. Anyone who has strong feelings about how they want to be medically treated should they become incapacitated or unable to communicate

their needs should be aware of the Health Care Decisions Act.

*****IMPORTANT DISCLAIMER: EVERYONE'S SITUATION IS DIFFERENT AND MOST EVERY RULE HAS EXCEPTIONS. THE INFORMATION IN THIS BROCHURE IS INTENDED FOR INFORMATIONAL PURPOSES AND SHOULD NOT BE SUBSTITUTED FOR INDIVIDUAL LEGAL ADVICE SPECIFIC TO A PARTICULAR CIRCUMSTANCE. PLEASE CONTACT A LAWYER FOR INDIVIDUAL ADVICE. *******

A Health Care Declaration may be either a written document or an oral declaration. If it is a written document, it must be signed by you and two witnesses, but it does not have to be notarized. If it is an oral declaration, it must be made in the presence of two witnesses and your attended doctor.

3. WHEN IS A HEALTH CARE DECLARATION USED?

A Health Care Declaration will only come into play when all of the following conditions occur at the same time:

- a) You have an illness where giving you a life-prolonging medical procedure would ONLY artificially prolong your death; and
- b) Your doctor needs to decide whether to give you a life-prolonging medical procedure; and
- c) You cannot communicate with your doctor.

HEALTH CARE POWER OF ATTORNEY

1. WHAT IS A HEALTH CARE POWER OF ATTORNEY?

A Health Care Power of Attorney allows you to name another person (or agent) to make health care decisions for you in the event you are unable to speak for yourself. It is different from a General Durable Power of Attorney in that it deals only with health care decisions and can

only be used if you are incapacitated. The powers given to your agent may include: consenting to or refusing any medical treatment or diagnostic procedure, or gaining access to medical records. The formalities for signing a Health Care Power of Attorney are the same as for a Health Care Declaration.

2. WHEN IS MY HEALTH CARE POWER OF ATTORNEY EFFECTIVE?

A Health Care Power of Attorney is only effective when you are unable to make or communication health care decisions for yourself.

3. MY AGENT

Your agent under a Health Care Power of Attorney does not have to live in Virginia. They should be someone who is mature and responsible and who knows your wishes. It is also a good idea to choose a substitute agent if your primary agent is unwilling or unable to act.



ADVICE. TO VIEW THE OFFICIAL VIRGINIA CODE SEE:

[HTTP://LEG1.STATE.VA.US/LIS.HTM](http://leg1.state.va.us/lis.htm)

If you would like further information regarding Advance Directives, you may also contact the following agencies:

The Virginia Lawyer Referral Service
707 East Main Street, Suite 1500
Richmond, VA 23219
1-800-552-7977
TTY: 1-804-775-0502

Forms and information: Federal law requires hospitals to ask patients if they have advance directives and they are often available at the hospital. You are not required to use an attorney to prepare one of these documents

NOTE: THIS PAMPHLET IS FOR EDUCATIONAL PURPOSES ONLY AND SHOULD NOT BE CONSIDERED LEGAL

HEALTH CARE DECLARATIONS

1. WHAT IS A HEALTH CARE DECLARATION OR "LIVING WILL"?

A Living Will is not really a will at all but rather it is a declaration which states in advance your wishes regarding the use of life-prolonging procedures if you are terminally ill and unable to provide further instructions. The Living Will has nothing to do with a conventional will which disposes of property after death.

Some people refer to the Living Will as a Health Care Declaration. In this pamphlet we will be using the term Health Care Declaration, but remember that a Health Care Declaration is the same as a Living Will.

2. WHAT GOES IN A HEALTH CARE DECLARATION?

A Health Care Declaration may:

- a) Direct that a specific procedure or treatment be provided; or
- b) Direct that a specific procedure or treatment be withheld or withdrawn.

The most important thing is that you make your Health Care Declaration clear and specific so that those who read it are able to determine what you want. A Health Care Declaration may be either written document or an oral declaration.

