



As a VA patient you have a say in the health care you receive. Normally your doctor explains your options for health care and you get to decide what is best for you. But what happens if you are too ill to make decisions for yourself? Who would you want to make decisions for you? Does this person know what you would or wouldn't want?

Questions like these can be hard to think about, but they're important. That's why VA wants you to know about a legal form you can complete. It's called an advance directive.

What is an advance directive?

An advance directive is a legal form that helps your doctors and loved ones understand your wishes about medical and mental health care. It can help them decide about treatments if you are too ill to decide for yourself. For example, if you are unconscious or too weak to talk. There are two types of advance directives: durable power of attorney for health care and living will. The VA form contains both.

What is a durable power of attorney for health care?

This form lets you name a person to make health care decisions for you if you can't make them yourself. This person is called your "health care agent." He or she will have the legal right to make health care decisions for you. You can choose any adult to be your agent. It's best to choose someone you trust and who knows you well. You should talk to that person to make sure they are willing to be your health care agent.

Do I have to fill out a durable power of attorney for health care?

No. It's up to you whether you complete a durable power of attorney for health care. If you don't choose a health care agent, your doctor will choose a spokesperson to make decisions for you in the following order: legal guardian (if you have one), spouse, adult child, parent, sibling, grandparent, grandchild, or a close friend. If your doctor can't find anyone from this list, VA staff or a court will make decisions for you.

What is a living will?

A living will is a legal form that communicates what kinds of health care you would or wouldn't want if you become ill and can't decide for yourself.

Do I have to fill out a living will?

No. It's up to you whether you fill out a living will. The purpose of a living will is to help your spokesperson and your doctor make decisions about your care. Whether or not you decide to fill out a living will, it's important to discuss your wishes with others. Talk to your health care agent, your loved ones, your doctors, and your health care team so they understand what is important to you.

Does my spokesperson have to follow my living will?

Most of the time, yes. Your spokesperson must try to respect your wishes if they are known. But it can be hard to imagine the future and say just what treatment you would want at that time. So sometimes your spokesperson may have to interpret your wishes. In a VA advance directive, you can say how strictly you want your wishes followed. You can tell your health care agent to do just what your living will says, or you can tell them to make the decision they think is best for you even if it isn't what the living will says.

Do health care providers have to follow my living will?

Your advance directive provides important guidance for your health care providers. Generally, your advance directive will be followed, unless there is conflicting information about your wishes or it is unclear how to apply your wishes. In a few cases, advance directives can't be followed because they conflict with legal or professional standards.

Should I have an advance directive?

Yes, it's a good idea to have one. An advance directive helps protect your right to make your own decisions. It helps make sure people respect your wishes if you can't speak for yourself.

WHAT YOU SHOULD KNOW ABOUT ADVANCE DIRECTIVES CONTINUED

Your advance directive is used only when you aren't able to make your own health care decisions.

What types of advance directive forms are available?

VA recognizes all types of legal advance directives, including VA, state, and Department of Defense (DoD) advance directives.

- The VA Advance Directive (Form 10-0137) contains more detail than most other advance directive documents. It also allows you to attach worksheets and other documents if you choose to do so. This lets you provide a more complete understanding of your wishes.
- State advance directives are legally binding under a certain state's laws. Some states may require you to use a particular form. Other states may have restrictions about language.
- A DoD advance directive is drafted by a military lawyer for military personnel. It's legally binding in VA and in every state.

How do I complete an advance directive?

Fill out VA Form 10-0137, "VA Advance Directive: Durable Power of Attorney and Living Will." Or use any valid state advance directive form. You can also fill out more than one form. But if you do this, you should make sure they don't conflict with each other. Your health care provider or legal advisor can help determine which form is best for you. You can fill out the form on your own or get help from a health care professional at your local VA health care facility. This might be a social worker, your primary care doctor, or your mental health professional. You could also talk to your spiritual advisor or attorney.

What should I do with my advance directive?

Give your advance directive to your VA health care provider so they can put it in your medical record. Also give a copy to your health care agent and anyone else who might be involved in making health care decisions for you.

Can I change my advance directive?

Yes, you may change or cancel your advance directive at any time. In fact, you should review your advance directive often, especially if there is a change in your health, to make sure it's up to date. If you change it, be sure to tell your health care team and have them put it in your health record. And share your new directive with your family members and other loved ones.

What if my family members or health care providers disagree about how to interpret my advance directive?

All VA health care facilities and most non-VA facilities have an Ethics Consultation Service that can help resolve conflicts. Talking with your spokesperson, loved ones, and health care providers ahead of time can help to prevent conflicts in the future.

I have homes in two states. Is my advance directive valid in both places?

States often have different laws and different forms. Check with your health care providers or legal advisors in each place. However, the VA advance directive is valid throughout the VA system.

Outside of VA, will my advance directive be legal in all 50 states?

The laws vary from state to state. However, most states will recognize an advance directive from another state. If you have a home in more than one state, check with your health care provider or legal advisor in each state. One form might work for all places, or you may need to complete a form to use in each state. A VA advance directive is valid throughout the VA system, no matter where your facility is located. A VA advance directive may or may not be legally binding outside of VA, depending on state law. But it can still carry a lot of weight in medical decisions by informing your providers and others about your preferences.