

Advance Directives

Put Your Wishes in Writing



QUESTIONS & ANSWERS ON

- **ADVANCE DIRECTIVES**
- **HEALTH CARE PROXIES**
- **LIVING WILLS**

As health care providers, the staff at Nathan Littauer Hospital & Nursing Home is aware that you may be worried about the medical care you would receive if you should become terminally ill and unable to communicate. You don't want to spend months or years dependent on life-support machines, and you don't want to cause unnecessary emotional or financial distress for your loved ones.

That's why a growing number of people are taking action before they become seriously ill. They are stating their health care preferences in writing, while they are still healthy and able to make such decisions, through legal documents called advance directives.

Before deciding what choices about your care at the end of life are best, you should talk over the issues involved with your family and your physician. Decide whether advance directives are right for you.

This brochure will give you some basic facts about advance directives and applicable forms to get you started on this process. If you have any questions, please contact the Quality Improvement Department of Nathan Littauer Hospital & Nursing Home at 725-8621 or 773-5531.

OUR MISSION

■ *Nathan Littauer Hospital & Nursing Home and its Family of Health Services are committed to providing high quality health and wellness services and improving the health of our communities in a caring, contemporary environment.*

Nathan Littauer Hospital & Nursing Home is accredited by the Joint Commission on Accreditation of Healthcare Organizations, licensed by the New York State Department of Health and is a member of the Capital Health Network.

Questions and Answers

■ **What are advance directives?**

Formal advance directives are documents written in advance of serious illness that state your choices for health care, or name someone (your agent) to make those choices, if you become unable to make decisions. Through advance directives such as living wills and the Health Care Proxy, you can make legally valid decisions about your future medical treatment.

■ **Why is there so much interest in advance directives now?**

Questions about medical care at the end of life are of great concern today, partly because of the growing ability of medical technology to prolong life and partly because of highly publicized legal cases involving comatose patients whose families wanted to withdraw treatment. Many people want to avoid extending personal and family suffering by artificial prolongation of life for patients in a vegetative state or when there is no hope of recovery. The best way for you to retain control in such a situation is to record your preferences for medical care in advance.

■ **What does the law say about this issue?**

Laws differ somewhat from state to state, but in general a patient's expressed wishes will be honored. In 1990 the U.S. Supreme Court found in the case of Nancy Cruzan that the State of Missouri could require "clear and convincing" evidence of a patient's wishes in order to remove life supports. Formal advance directives can be critical to establishing such clear and convincing evidence of a patient's wishes. The Patient Self-Determination Act of 1990 requires hospitals to inform their patients about advance directives.

■ **What is a living will?**

A living will is a document in which you can stipulate the kind of life-prolonging medical care you want if you become terminally ill and unable to make your own decisions. Most states have their own living-will forms, each with somewhat different requirements. It is also possible to complete and sign a standard form from a stationery store, draw up your own form, or simply write a statement of your preferences for treatment.

A living will should be signed, dated, and witnessed by two adults (over age 18), preferable individuals who know you well but not related to you and are not your potential heirs or your health care providers. It should be discussed and shared with your family and your physician, and you should ask your physician to make it a part of your permanent medical record. Although you do not need a lawyer to draw up a living will, you may wish to discuss it with a lawyer and leave a copy with him or her.

■ **What is a Health Care Proxy?**

A Health Care Proxy is another kind of advance directive: a signed, dated, and witnessed document naming another person to make medical decisions for you if you are unable to make them for yourself. You can include instructions about any treatment you want or wish to avoid, such as surgery or artificial nutrition and hydration. New York State has specific laws allowing a Health Care Proxy, along with preprinted forms. You can draw up a Health Care Proxy with or without the advice of a lawyer.

■ **Which is better— a Living Will or a Health Care Proxy?**

In New York State, specific laws make it advantageous to have a Health Care Proxy. Historically, living wills were developed first, and the Health Care Proxy was designed later to be more flexible and apply to more situations. Today the distinction between the two types of documents is becoming blurred. It is possible to have both a living will and a Health Care Proxy, or to combine them in a single document that both describes one's treatment preferences in a variety of situations and names a proxy agent.

■ **How can I know in advance which procedures I would want or not want to prolong my life?**

Although it isn't possible to specify every possible procedure under every possible circumstance, it is possible to decide what kind of treatment you would want in most situations. Preferences can be clarified by thinking about and discussing with your family, friends, and others, your views about death, being totally dependent on the care of others, the role of family finances, the conditions that would make life intolerable to you, and how artificial life-support would affect the dying process. If you have questions about the kinds of procedures that are often used when illness is severe and recovery unlikely, ask your physician. It is never too early to start this decision-making process, and you should not postpone it until you face serious illness.

■ **What is the legal status of advance directives?**

New York State legally recognizes properly prepared advance directives. Even in states that do not, because decision making for an incapacitated patient should respect the choices the patient would have made, such documents carry substantial weight. Even if a particular instruction in an advance directive might not be enforceable under some circumstance, it is better to express your wishes and intent in some kind of written document than not to express them at all.

■ **What if I draw up a Living Will or Health Care Proxy and then change my mind?**

You may change or revoke these documents at any time. Any alterations and any written revocation should be signed and dated, and copies should be given to your family, physician, and other appropriate people. Even without an official written change, your orally expressed direction to your physician generally has priority over any statement made in a living will or power of attorney as long as you are able to decide for yourself and can communicate your wishes. If you wish to revoke an advance directive while you are hospitalized, you should notify your primary physician, your family, and others who might need to know. If you consulted an attorney in drawing up your document, you should also notify him or her.

■ **What if I fill out an advance directive in one state and am hospitalized in a different state?**

The law on honoring an advance directive from another state is unclear. Because an advance directive is an expression of your intent regarding your medical care, it will influence that care no matter where you are hospitalized. However, if you spend a great deal of time in more than one state you might wish to consider executing an advance directive in both states.

■ **If a comatose or mentally incompetent patient does not have a Living Will or Health Care Proxy, who decides whether to withdraw treatment?**

If there is no advance directive by the patient, the decision is left to the patient's family, physician, and hospital, and ultimately a judge. Usually the family, physician, and hospital can reach an agreement without resorting to the courts, often with the help of a hospital ethics committee.

■ **What will the hospital do to help if I or my family member should be in this situation?**

Nathan Littauer Hospital has a Medical Ethics Committee, one whose function is to help in decision making about the end of life. Physicians, nurses, social workers, lawyers, clergy, patient representatives, and sometimes professional bioethicists discuss issues, advise on hospital policy, and review cases. Although they will often counsel a patient's family and make a recommendation, the final decision is still up to the patient, the family, and the physician.

■ **Where can I get a Living Will and Health Care Proxy?**

If you need additional copies, call Nathan Littauer Hospital at 518-773-5531. Information is also available from the American Association of Retired Persons, from your state or local Office on Aging, your local bar association, and many area civic and service organizations.

Glossary

■ **Advance Directive**

A document in which a person either states choices for medical treatment or designates who should make treatment choices if the person should lose decision-making capacity. The term can also include oral statements by the patient.

■ **Artificial Nutrition and Hydration**

A method of delivering food and water when a patient is unable to eat or drink. The patient may be fed through a tube inserted directly into the stomach, a tube put through the nose and throat into the stomach, or an intravenous tube.

■ **Cardiopulmonary Resuscitation (CPR)**

A medical procedure, often involving external chest compression, administration of drugs, and electric shock, used to restore the heartbeat at the time of a cardiac arrest.

■ **Decision-Making Capacity**

The ability to make choices that reflect an understanding and appreciation of the nature and consequences on one's actions.

■ **Declaration**

An advance directive.

■ **DNR**

Do Not Resuscitate; a medical order to refrain from cardiopulmonary resuscitation if a patient's heart stops beating.

■ **Health Care Proxy (HCP)**

An advance directive in which an individual names someone else (the “agent” or “proxy”) to make health care decisions in the event the individual becomes unable to make them himself or herself. The HCP can also include instructions about specific possible choices to be made.

■ **Hospice**

A program that provides care for the terminally ill in the form of pain relief, counseling, and custodial care, either at home or in a facility.

■ **Legal Guardian**

A person charged (usually by court appointment) with the power and duty of taking care of and managing the property and rights of another person who is considered incapable of administering his or her own affairs.

■ **Life-Sustaining Treatment**

A medical intervention administered to a patient that prolongs life and delays death.

■ **Palliative Care**

Medical interventions intended to alleviate suffering, discomfort, and dysfunction but not to cure (such as pain medication or treatment of an annoying infection).

■ **Persistent Vegetative State**

As defined by the American Academy of Neurology, “a form of eyes-open permanent unconsciousness in which the patient has periods of wakefulness and physiologic sleep/wake cycles but at no time is aware of himself or his environment.”

■ **Proxy**

A person appointed to make decisions for someone else, as in a Health Care Proxy (also called surrogate or agent).

■ **Terminal Condition**

In most states, a status that is incurable or irreversible and in which death will occur within a short time. There is no precise, universally accepted definition of “a short time,” but in general it is considered to be less than one year.

■ **Ventilator**

A machine that moves air into the lungs for a patient who is unable to breathe naturally. Also called a respirator.



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