

## Should I appoint a health care agent?

While it is not required in a health care directive, you may choose another person to make health care decisions for you in the event that you cannot make decisions for yourself. This person is called a health care agent or proxy. Some documents use the term “durable power of attorney for health care” to describe this appointment. In North Dakota, the person you choose as your agent must be 18 years of age or older, and the agent must accept the appointment in writing. In North Dakota, there are certain people you cannot appoint as an agent. These are your health care provider or long-term care services provider, or a non-relative who is employed by your health care provider or long-term care services provider.

The agent has the authority to make the same kinds of decisions about health care that you could make if you were able. This includes the selection and discharge of health care providers and institutions; approval or disapproval of diagnostic tests, surgical procedures, programs of medication and orders not to resuscitate; and directions to provide, withhold or withdraw artificial nutrition and hydration and all other forms of health care. You may limit any of these powers or assign additional ones.

Even if you choose a health care agent, you can still give health care instructions in writing that direct your health care agent in making health care decisions.

Talk beforehand to any person you wish to appoint as your health care agent. Find out if the person is willing to accept the responsibility. Tell them about your wishes and preferences for care. Be sure they are willing and able to follow your wishes.

## Will my health care directive be honored?

There are several things you can do to help ensure that your directive is understood and honored. Talk to your loved ones and health care professionals about your wishes and preferences and give them a copy of your directive. Keep your directive up to date. Remember, having a plan and talking about that plan with the people who are important to you ensures that you will have a say in the decisions about your care.

## What should I do with my health care directive?

You should keep your original document in a place that is easy to find in the event you should become unable to make or communicate decisions. You should provide a copy of your health care directive to your physician and any other health care providers such as your hospital, nursing facility, hospice or home health agency. In addition, you may want to give copies of your health care directive to other persons, such as close family members and your attorney, if you have one. A copy of a health care directive is generally presumed to be a true and accurate copy of the original.

**If you or your agent have complaints in regards to advance directives, contact the North Dakota Department of Health-Division of Health Facilities at (701) 328-2352.**

**Sakakawea Medical Center will not discriminate against an individual based on whether or not the individual has executed an advance directive.**

# Health Care Directive

Advance Directives

## COMMON QUESTIONS AND ANSWERS



**SAKAKAWEA  
MEDICAL CENTER**

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This brochure explains your right to make healthcare decisions and how you can plan now for your medical care if you are unable to speak for yourself in the future.

A federal law requires us to give you this information. We hope this information will help increase your control over your medical treatment.

## Answers to some of your questions....

### What happens if I don't have a health care directive?

In North Dakota, if you have not appointed a health care agent and you are unable to make or communicate health care decisions, state law will determine who may make healthcare decisions for you. The law authorizes persons in the following categories, in the order listed, to make decisions:

- Your health care agent, unless a court specifically authorizes a guardian to make decisions for you
- Your court-appointed guardian or custodian
- Your spouse
- Any of your children
- Your parents
- Your adult brothers and sisters
- Your grandparents
- Your adult grandchildren
- An adult friend or close relative

No one in a lower category may provide consent for health care if someone in a higher category has refused to consent to the proposed health care.

Before giving consent, an authorized person must determine that you would have consented to such health care if you were able to do so. If the authorized person is unable to make this determination, he or she may only consent to the proposed health care if he or she feels the health care is in your best interests.

### What form can I use?

North Dakota has an optional legal form called a health care directive that you can use to help start conversations and clearly set forth your wishes for the health care you receive if you are unable to make or communicate your decisions.

You can use a health care directive to:

- Give instructions about any aspect of your health care
- Choose a person to make health care decisions for you
- Give instructions about specific medical treatments you do or do not want
- Give other instructions, including where you wish to die and if you wish to make an organ or tissue donation

There are many other health care directive forms available that meet legal requirements in North Dakota. You should use a form with which you are comfortable and that best reflects your values and preferences.

### To be legal in North Dakota, a health care directive must:

- Be in writing
- Be dated
- State the name of the person to whom it applies
- Be executed by a person with the capacity to understand, make and communicate decisions
- Be signed by the person to whom it applies or by another person authorized to sign on behalf of the person to whom it applies
- Contain verification of the required signature, either by a notary public or by qualified witnesses
- Include a health care instruction or a power of attorney for health care, or both.

It is not necessary to have an attorney provide or fill out the form. Nor is it necessary to use a pre-printed form at all. Any written statement that meets the requirements stated above can serve as a legal health care directive. However, you should contact an attorney if you have legal questions regarding advance care planning.

### What if I already have a directive that I signed before the new law?

The new law creating the optional health care directive became effective August 1, 2005. If you signed a valid health care directive, living will or durable power of attorney before August 1, 2005, that document remains in effect. You may still wish to review the new optional form and consider whether it would provide a better way for you to express your wishes.

### When does a health care directive become effective?

You may choose to authorize your health care agent to make health care decisions for you even if you still have the capacity to make those decisions. Under this option, the health care directive is effective under any conditions you may impose. You may also revoke this authorization as you would any other health care directive.

### Can I still make my own health care decisions after I have signed a health care directive?

Yes. You will be able to make your own health care decisions as long as you are capable of doing so. Your agent's authority starts only when your doctor certifies in writing that you do not have the capacity to make health care decisions.

It is possible that something you list in your advance directive may be denied if your provider, in good conscience, does not feel he/she can authorize it. Sakakawea Medical Center will assist you to make other arrangements so your wishes can be followed.