



HEALTH CARE ADVANCE DIRECTIVES

A health care advance directive is the primary legal tool for any health care decisions made when you cannot speak for yourself. "Health Care Advance Directive" is the general term for any written statement you make while competent concerning your future health care wishes. Formal advance directives include the living will and the health care power of attorney.

- A living will (or "medical directive" or "declaration" or "directive to physicians") is simply a written instruction spelling out any treatments you want or don't want. If you are unable to speak for yourself and terminally ill or permanently unconscious, a living will says in effect, "Whoever is deciding, please follow these instructions. On its own, a living will is very limited- it usually applies only to end-of-life decisions and standard instructions tend to be general. Unless you have a good crystal ball, it is impossible to anticipate every future medical scenario.
- A health care power of attorney (or health care "proxy," or "medical power of attorney") is a document that appoints someone of your choosing to be your authorized "agent" (or "attorney-in-fact" or "proxy"). You can give your agent as much or as little authority as you wish to make health care decisions. The decisions are not limited to just end-of-life decisions. Appointing an agent provides someone with authority to weigh all the medical facts and circumstances and interpret your wishes accordingly. A health care power of attorney is broader and more flexible than the living will.
- A comprehensive Health Care Advance Directive combines the living will and the health care power of attorney into one document. In addition, you may include any other directions, including organ donation or where and how you prefer to be cared for because it is more comprehensive and more flexible than the other tools, it is the preferred legal tool.

How do you select a health-care agent?

The choice of agent is the most important part of this process. Your agent will have great power if you become incapacitated. There is normally no formal oversight of your agent's decisions. Therefore, follow these guidelines.

- Speak to the person beforehand and explain your intentions. Confirm his/her willingness to act and understand your wishes. That means talking honestly and openly about death and dying.
- Know who can and cannot be a health care agent in Hawaii. Each state has different rules. Most prohibit your doctor and other health care providers from being your agent, unless they are related to you.
- Seriously consider naming successor agents.
- Avoid naming co-agents. It adds potential for disagreement and logistical complications. If you really want co-agents, have a plan for what happens when there is a split decision among them.
- If you trust no one to be your agent, don't name one. Instead, use only the living will or limit the authority of your agent, by giving the agent authority over some but not all treatment decisions or by requiring concurrence between your agent and physician.

Can you change or terminate your advance directive?

Yes. You can change or revoke your advance directive while you have the capacity to do so and no one can make a health care decision over your objection. You can revoke your directive orally or in writing by just about any means, although it is preferable to do it by writing your agent, physician and anyone else who has a copy of your directive.

If you want to change your advance directive, it is best to execute a new one, since an amendment will require the same signature formalities of a new document anyway.

It is a good idea to have an attorney assist you with completing the documents. Attorneys are in the best position to assist you in drafting clear and comprehensive advanced directives. Contact your attorney or the Legal Aid Society of Hawaii, 305 Wailuku Drive, Hilo, Hawaii 96720, Phone #: 961-2851.