

# ADVANCE DIRECTIVES

*Advance Directives are written instructions which communicate your wishes about the care and treatment you want if you reach a point where you can no longer make your own health decisions.*

All health care facilities that receive Medicare and Medi-Cal payments must provide patients with written information concerning 1) their right to accept or refuse treatment and 2) their right to prepare advance directives. The law does not require that you actually have or make an advance directive.

Under California law, adult persons with decision-making capabilities have the right to accept or refuse medical treatment or life sustaining procedures. Artificial nutrition and hydration are among the medical procedures you have the right to accept or refuse.

## REASONS WHY YOU MAY WANT TO PREPARE AN ADVANCE DIRECTIVE-

- ❖ To ensure you receive the care and services you desire.
- ❖ To ensure the refusal of treatment at a determined stage if you have previously stated your desires to do so.
- ❖ To designate the person you would like to make decisions on your behalf.
- ❖ To ensure that family and friends understand your wishes regarding health care. If you do not make your wishes clear, your family members and friends may not agree about what type of care and treatment you would want. It is possible that your desires will not be carried out, since a conflict may lead to a lengthy court delay.

*Being prepared with an Advance Directive, you can say WHAT types of treatment you want and WHO you want to speak for you.*

## THE DURABLE POWER OF ATTORNEY FOR HEALTH CARE-

This is a legally binding document that allows the person you choose (the “agent”) to make health decisions for you if and when you are no longer able to make such decisions. You should select a person who knows you well, and whom you trust. Your agent may be a relative or a friend, but must not be your attending doctor. The Durable Power of Attorney for Health Care allows your agent to make any and all health care decisions for you once you are no longer able to decide. This includes routine medical decisions, as well as more complicated decisions. Your agent can even decide to withdraw or withhold life-sustaining procedures if you give your agent the authority.

To be valid, the document must be signed by you. The document must also be witnessed by two qualified adult witnesses.

Those persons not eligible to be witnesses are your doctor, nurse, their employee or any other healthcare professional.

- ❖ You DO NOT need a lawyer to fill out a Durable Power of Attorney of Healthcare.
- ❖ The Durable Power of Attorney of Health Care allows you, in writing, to declare your desire to receive or not receive life-sustaining treatment under certain conditions. You may list any instructions you want pertaining to health care.

## THE NATURAL DEATH ACT-

This is another type of advance directive most often called a “Declaration”. This document DOES NOT require you to appoint an agent to make health care decisions for you.

The Declaration is for terminally ill patients. While you still have decision making capabilities, you may sign a Declaration which tells your doctors that you don’t want any treatment that would prolong the dying the process. The Declaration must be followed in these circumstances:

- ❖ If you fall into a permanent unconscious state or a terminal condition (certified by two doctors).
- ❖ At the time you cannot make your own health care decisions.

Those persons who are witnesses to the signing of the Declaration must meet the same requirements, as those needed for the Durable Power of Attorney for Health Care.

## DO I NEED A SPECIAL FORM FOR THIS DURABLE POWER OF ATTORNEY FOR HEALTH CARE?-

YES. Use a Durable Power of Attorney for Health Care form, not plain Durable Power of Attorney. You can ask your physician, nurse or social worker about the form.

The California Medical Association has printed forms that meet the legal requirements. – California Medical Association Po Box 7690 San Francisco, CA 94120-7690. 415-882-5175 or visit their website at: [www.cmanet.org](http://www.cmanet.org)

Many stationery stores carry the forms. There is a small charge for these forms from all sources.

## OTHER DOCUMENTS-

*Other documents that help determine your health care desires IF and When you are UNABLE to make such decisions for yourself.*

“DO NOT RESUSITATE”- This form allows your doctor to withhold “resuscitative measures”, should that be your desire. This should be signed by you, your doctor, and a surgeon. The law does not require witnesses and notarization. NO ONE CAN MAKE YOU SIGN A “DO NOT RESUSCITATE” ORDER.

“PREFERRED INTENSITY OF CARE”-This is a document of your preferences for care under special circumstances. A discussion with your physician and/or legal representative occurs prior to creating this document.

“LIVING WILL”- This lists your desires to receive or not receive life-sustaining medical treatment under certain circumstances. A living will is NOT a legally binding agreement, although it is often accepted as an accurate statement of one’s wishes.