



ADVANCE DIRECTIVES

The purpose of this section is to inform you of ways that you can direct your medical care and treatment in the event that you are unable to communicate for yourself. This section covers:

What is an advance directive?

Are advance directives required?

What happens if you do not have an advance directive?

What are the different types of advance directives?

The Importance of advance directives

Each time you visit your physician, you make decisions regarding your personal health care. You tell your physician about your medical problems. Your physician makes a diagnosis and informs you about available medical treatment. You then decide what treatment to accept. That process works until you are unable to decide what treatments to accept or become unable to communicate your decisions. Advance directives are a way to manage your future health care when you cannot speak for yourself.

What is an advance directive?

“Advance directive” is a term that refers to your spoken and written instructions about your future medical care and treatment. By stating your health care choices in an advance directive, you help your family and physician understand your wishes about your medical care. Indiana law pays special attention to advance directives.

Advance directives are normally one or more documents that list your health care instructions. An advance directive may name a person of your choice to make health care choices for you when you cannot make the choices for yourself. If you want, you may use an advance directive to prevent certain people from making health care decisions on your behalf.

Your advance directives will not take away your right to decide your current health care. As long as you are able to decide and express your own decisions, your advance directives will not be used. This is true even under the most serious medical conditions. Your advance directive will only be used when you are unable to communicate or when your physician decides that you no longer have the mental competence to make your own choices.

Are advance directives required?

Advance directives are not required. Your physician or surgical center/hospital cannot require you to make an advance directive if you do not want one. No one may discriminate against you if you do not sign one. Physicians and hospitals often encourage patients to complete advance directive documents. The purpose of the advance directive is for your physician to gain information about your health care choices so that your wishes can be followed. While completing an advance directive provides guidance to your physician in the event that you are unable to communicate for yourself, you are not required to have an advance directive.

What happens if you do not have an advance directive?

If you do not have an advance directive and are unable to choose medical care or treatment, Indiana law decides who can do this for you. Indiana Code §16-36 allows any member of your immediate family (meaning your spouse, parent, adult child, brother, or sister) or a person appointed by a court to make the choice for you. If you cannot communicate and do not have an advance directive, your physician will try to contact a member of your immediate family. Your health care choices will be made by the family that your physician is able to contact.

What types of advance directives are recognized in Indiana?

Talking directly to your physician and family, Health care representative, Do not resuscitate declaration and order (This directive is not enacted at Unity Surgical Center), Power of attorney

Talking to your physician and family

One of the most important things to do is to talk about your health care wishes with your physician. Your physician can follow your wishes only if he or she knows what your wishes are. You do not have to write down your health care wishes in an advance directive. By discussing your wishes with your physician, your physician will record your choices in your medical chart so that there is a record available for future reference. Your physician will follow your verbal instructions even if you do not complete a written advance directive. Solely discussing your wishes with your physician, however, does not cover all situations. Your physician may not be available when choices need to be made. Other health care providers would not have a copy of the medical records maintained by your physician and therefore would not know about any verbal instructions given by you to your physician. In addition, spoken instructions provide no written evidence and carry less weight than written instructions if there is a disagreement over your care. Writing down your health care choices in an advance directive document makes your wishes clear and may be necessary to fulfill legal requirements.

If you have written advance directives, it is important that you give a copy to your physician. He or she will keep it in your medical chart. You do not always know when or where an illness or accident will occur. It is likely that your family would be the first ones called in an emergency. They are the best source of providing advance directives to a health care provider.

Health care representative

A “health care representative” is a person you choose to receive health care information and make health care decisions for you when you cannot. To choose a health care representative, you must fill out an appointment of health care representative document that names the person you choose to act for you. Your health care representative may agree to or refuse medical care and treatments when you are unable to do so. Your representative will make these choices based on your advance directive. If you want, in certain cases and in consultation with your physician, your health care representative may decide if food, water or respiration should be given artificially as part of your medical treatment.

Choosing a health care representative is part of the Indiana Health Care Consent Act, found at Indiana Code §16-36-1. The advance directive naming a health care representative must be in writing, signed by you and witnessed by another adult. Because these are serious decisions, your health care representative must make them in your best interest. Indiana courts have made it clear that decisions made for you by your health care representative should be honored.



Do not resuscitate declaration or order

If you have a directive of the “Out of Hospital Do Not Resuscitate Declaration and Order” it will not be enacted at Unity Surgical Center. Unity Surgical Center will provide all means necessary to resuscitate all patients during their stay at Unity Surgical Center.

Power of attorney

A “power of attorney” (also referred to as a “durable power of attorney”) is another kind of advance directive. This document is used to grant another person say-so over your affairs. Your power of attorney document may cover financial matters, give health care authority or both. By giving this power to another person, you give this person your power of attorney. The legal term for the person you choose is “attorney in fact”. Your attorney in fact does not have to be an attorney. Your attorney in fact can be any adult your trust. Your attorney in fact is given the power to act for you only in the ways that you list in the document. The document must:

- (1) Name the person you want as your attorney in fact
- (2) List the situations which give the attorney in fact the power to act
- (3) List the powers you want to give; and
- (4) List the powers you do not want to give.

Prior to executing a power of attorney document, you should talk with the person to ensure that he or she is willing to serve. A power of attorney document may be used to designate a health care representative. Health care powers are granted in the power of attorney document by naming your attorney in fact as your health care representative under the Health Care Consent Act or by referring to the Living Will Act. When a power of attorney document is used to name a health care representative, this person is referred to as your health care power of attorney. A health care power of attorney generally services the same role as a health care representative advance directive. Including health care powers could allow your attorney in fact to:

- (1) Make choices about your health care
- (2) Sign health care contracts for you
- (3) Admit or release you from hospitals or other health facilities
- (4) Look at or get copies of your medical records; and
- (5) Do a number of other things in your name.

The Indiana Powers of Attorney Act is found at Indiana Code §30-5. Your power of attorney document must be in writing and signed in the presences of a notary public. You can cancel a power of attorney at any time but only by signing a written cancellation and having the cancellation delivered to your attorney in fact.

If your “power of attorney” is currently acting for you, Unity Surgical Center requires a copy of your “power of attorney” document prior to surgery. Please bring any documents related to your “power of attorney” to the surgical center on the day of surgery.

What advance directives should be used?

The choice of advance directives depends on what you are trying to do. The advance directives listed above may be used alone or together. Although an attorney is not required, you may want to talk with one before you sign an advance directive. The laws are complex and it is always wise to talk to an attorney about questions and your legal choices. An attorney is often helpful in advising you on complex family matters and making sure that your documents are correctly done under Indiana law. An attorney may be helpful if you live in more than one state during the year. An attorney can advise you whether your advance directives completed in another state are recognized in Indiana.

Can I change my mind after I write an advance directive?

Your health care wishes cannot be followed unless someone knows your wishes. You may change or cancel your advance directives at any time as long as you are of sound mind. If you change your mind, you need to tell your family, health care representative, power of attorney, and health care providers. You might have to cancel your decision in writing for it to become effective. Always be sure to talk directly with your physician and tell him or her your exact wishes.

Are there forms to help in writing these documents?

Advance directive forms are available from many sources. Upon request, Unity Surgical Center will assist you with official Stated Directive Forms. Although advance directives do not require an attorney, you may wish to consult with one before you try to write one of the more complex legal documents listed above.

What should I do with my advance directive if I choose to have one?

Make sure that your health care representative, immediate family members, physician, attorney and other health care providers know that you have an advance directive. Be sure to tell them where it is located. You should ask your physician and other health care providers to make your advance directives part of your permanent medical chart. If you have a power of attorney, you should give a copy of your advance directives to your attorney in fact. You may wish to keep a small card in your purse or wallet that states that you have an advance directive, where it is located, and how to contact your attorney in fact or health care representative, if you have named one.

Final thoughts about advance directives

- You have the right to choose medical care and treatment you receive. Advance directives help make sure you have a say in your future health care and treatment if you become unable to communicate.
- Even if you do not have written advance directives, it is important to make sure your physician and family are aware of your health care wishes.
- No one can discriminate against you for signing or not signing an advance directive. An advance directive is, however, your way to control your future medical treatment.
- This information was prepared by the Indiana State Department of Health attorneys who cannot give you legal advice concerning living wills or advance directives. You should talk with your personal lawyer or representative for advice and assistance in this matter.

Other advance directives include Organ and tissue donation, Living will declaration or Life-prolonging procedures declaration, and Psychiatric advance directives. Further information on these directives may be provided upon request.