

The Connecticut Attorney General offers a free living will form that you can print and complete. While it isn't pleasant to contemplate being unable to communicate your preferences to health care providers, a living will can ensure that the decision as to whether to receive life support is yours. It can also spare your family much heartache in making this very difficult decision.

Connecticut Attorney General's Office -- *Attorney General Richard Blumenthal*
Your Rights to Make Health Care Decisions

Questions and Answers

You have the right to make health care decisions about the medical care you receive. If you do not want certain treatments, you have the right to tell your physician you do not want them.

You also have the right to receive information from your physician to assist you in reaching a decision about what medical care is to be provided to you.

There may come a time when you are unable to actively participate in determining your treatment due to serious illness, injury or other disability.

This file discusses the options available in Connecticut to help you to convey written instructions to guide your physician, family and others as to what treatment choices you desire to be made if you can not express your wishes.

Frequently Asked Questions

Do I have the right to make health care decisions? Yes. Adult patients in Connecticut have the right to determine what, if any, medical treatment they will receive. As a capable adult, you may agree to treatment that may help you or you may refuse treatment even if the treatment might keep you alive longer.

Do I have the right to information needed to make a health care decision? Yes. Physicians have the responsibility to provide patients with information that can help them to make a decision. Your physician will explain:

- what treatments may help you;
- how each treatment may effect you, that is, how it can help you and what, if any, serious problems or side effects the treatment is likely to cause;
- what may happen if you decide not to receive treatment.

Your physician may also recommend what, if any, treatment is appropriate, but the final decision is yours to make. All of this information is provided so you can exercise your right to decide your treatment wisely.

What is an advance directive? An advance directive is a legal document through which you may provide your directions or wishes as to your medical care. It is used when you are unable to make or communicate your decisions about your medical treatment.

It is prepared before any condition or circumstance occurs that causes you to be unable to actively make a decision about your medical care.

In Connecticut, there are three types of advance directives:

- the living will or health care instructions
- the appointment of a health care agent
- the appointment of an attorney-in-fact for health care decisions, also called a durable power of attorney for health care decisions.

Must I have an advance directive? No. You do not have to make a living will or other type of advance directive to receive medical care or to be admitted to a hospital, nursing home or other health care facility. No person can be denied medical care or admission based on whether or not they have signed a living will or other type of advance directive.

If someone refuses to provide you medical care or admit you unless you sign a living will or other type of advance directive, contact the Department of Public Health and Addiction Services in Hartford, Connecticut.

What is a living will? A living will is a document that states whether you wish to have administered life sustaining procedures or treatment should you be in a terminal condition or permanently unconscious. The living will tells your physician whether you want "life support systems" to keep you alive in these situations or whether you do not want to receive such treatment, even if the result is your death. A living will goes into effect only (1) when you are unable to make or communicate your decisions about your medical care and (2) when you are in a terminal condition or permanently unconscious.

A patient is in a "terminal condition" when the physician finds that the patient has a condition which is (1) incurable or irreversible and (2) will result in death within a relatively short time if life support systems are not provided. "Permanently unconscious" means a permanent coma or persistent vegetative state where the patient is not aware of himself or his surroundings and is unresponsive.

What is a life support system? A "life support system" is a form of treatment that only delays the time of your death or maintains you in a state of permanent unconsciousness. Life support systems may include among other things:

- devices such as respirators and dialysis;
- cardiopulmonary resuscitation (CPR);
- food and fluids supplied by artificial means, such as feeding tubes and intravenous fluids.

It does not include

- normal feeding and fluids, such as by hand or straw;
- medications such as antibiotics in special circumstances.

Will I receive medication for pain if I have a living will? Yes. A living will does not affect the provision of pain medication or care designed solely to maintain your physical comfort (for example, care designed to maintain your circulation or health of your skin and muscles). This type of care will be provided whenever appropriate.

What is a health care agent? A health care agent is a person whom you authorize in writing to convey your wishes concerning whether you wish to withhold or withdraw life support systems. The agent does not become involved in any other treatment decisions. A health care agent does not act unless you are unable to

make or communicate your decisions about your medical care. The health care agent may tell your physician what your wishes are regarding life support treatment and may take the steps necessary to ensure that your wishes are fulfilled. Your physician will ask your health care agent what your wishes were regarding life support treatment if he does not have a living will from you. Thus, the health care agent can be a "back-up" for your living will if it becomes unavailable and can take action if your wishes are being ignored.

It is important to understand that a health care agent cannot represent your wishes on decisions other than whether to withhold or withdraw life support systems. For example, the decisions to provide you physical therapy or to get second opinions cannot be made by a health care agent.

You can appoint a person to make such other medical care decisions on your behalf through a durable power of attorney. In addition, a court can appoint someone as your conservator to make such decisions.

What is an attorney-in-fact for health care decisions? An attorney-in-fact for health care decisions is a person whom you name in a document called a durable power of attorney, to make medical decisions other than withdrawal of life support systems on your behalf should you become unable to make or communicate such decisions yourself. Your attorney-in-fact may make decisions about any aspect of your medical treatment except in three areas. He or she may not make decisions regarding: (1) withdrawal of life support systems; (2) withdrawal of food and fluids; and (3) medical treatment designed solely to maintain your physical comfort.

What is a conservator? A "conservator of the person" is someone appointed by the Probate Court when the Court finds that a person is incapable of caring for himself/herself including the inability to make decisions about his or her medical care. The conservator of the person has responsibility for the general custody and care of the incapable individual and has the power to give consent for the medical care, treatment and services provided to the incapable person. You can name in advance the person you want the Court to appoint as your conservator if you become incapable of making your own decisions. If you have a conservator, he or she will be consulted in all medical care decisions. If you have a living will, however, the conservator's consent is not required to carry out your wishes as expressed in the living will.

What advance directives should I have? If you want to be sure that your wishes about your medical care are known if you cannot express them yourself, you should have a living will, a health care agent and an attorney-in-fact for health care decisions. Each of these directives has a special importance.

If you are unable to make or communicate your preferences as to your general medical care, your attorney-in-fact for health care decisions can make those decisions for you. However, if the decision is whether to withhold or withdraw a life support system, your attorney-in-fact for health care decisions cannot make the decision. Life support decisions can be made with your health care agent and living will.

On the question of life support, your physician will look first to your living will as the source of your wishes. If your physician does not have a living will for you, then your health care agent can inform your physician what your wishes were regarding life support systems. In addition, your health care agent can take the steps necessary to ensure that your wishes are given effect.

Thus, for general health care decisions, a durable power of attorney should be created. For decisions regarding life support systems, a living will and an appointment of health care agent is recommended.

Who can I name as my health care agent or as my attorney-in-fact for health care or as my conservator? You can name the same person to be your health care agent and as your attorney-in-fact for health care decisions or to be your conservator. The following persons cannot be named your health care agent:

- your physician;
- if you are a patient at a hospital or nursing home or if you have applied for admission, the operators, administrators, and employees of the facility;
- an administrator or employee of a government agency responsible for paying for your medical care.

Other than these restrictions, you can name anyone you feel is appropriate to serve as your health care agent. Although these restrictions only apply to the health care agent, it may be a good idea to follow them in deciding who should hold your durable power of attorney or be named as conservator. Of course, you should speak to the person whom you intend to name and be sure of his or her willingness to serve.

Do I need a lawyer to create an advance directive? No. You do not need a lawyer to create an advance directive. You can use the forms in this booklet. Please note that if you appoint an attorney-in-fact for health care decisions, a notary public or a lawyer must notarize your signature. The optional form called a witnesses' affidavit which is included among the forms in this booklet also requires a notary public or a lawyer to notarize the signature of the witnesses. This form is discussed in more detail in the next section. No other form needs to be notarized. If you have legal questions, you should consult a lawyer.

Do I have to sign my advance directives in front of witnesses? Yes. You must sign the document in the presence of two witnesses in order for any of the different types of advance directives to be valid. The witnesses then sign the form.

For the living will and the appointment of health care agent, an optional form is provided in this booklet. It is called a witnesses' affidavit. It is the witnesses' sworn statement that they saw you sign the living will or appointment form and you were of sound mind and it was your free choice to do so. In the event that there is a dispute regarding your living will or appointment of a health care agent, the witnesses affidavits support its validity. This affidavit requires the use of an attorney or notary public.

Who can witness my signing of an advance directive? The person who you appoint to be your health care agent or as your conservator cannot be a witness to your signature of the appointment form. In general, it is a good idea not to have the person you name as your attorney-in-fact as a witness. Otherwise, except in a few unique situations, Connecticut law does not state who may or may not be a witness to your advance directive.

Once I complete an advance directive what should I do? You should tell the following persons that you have completed an advance directive and give them copies of the directives you have made:

- your physician;
- the person(s) you have named as a health care agent or as your attorney-in-fact for health care decisions;
- anyone who will make the existence of your advance directives known if you cannot do so yourself, such as family members, close friends, your clergy or lawyer.

You should also bring copies when you are admitted to a hospital, nursing home or other health care facility. The copies will be made part of your medical record.

After I complete an advance directive, can I revoke it? Yes. You can revoke your living will or appointment of a health care agent at any time, either orally or in writing and remember to tell your physician and others who have copies of your advance directive. To revoke your designation of a conservator, you can do so either in writing, by destroying the document or by making a new designation which states that earlier designations are revoked. It is advisable to put any revocation in writing.

If I already have a living will, do I need a new one? No. Connecticut's living will statutes were revised effective October 1, 1993. If your living will and other advance directives were completed prior to this date, they are valid, but probably looks different than the one in this booklet. On October 1, 1993, a new combined form was created which is contained in this booklet. However, all other forms remain valid and still can be used.

If I don't have an advance directive, how will my wishes be considered if I am unable to speak for myself? If you are unable to make and communicate your decision concerning your medical care and you do not have a living will, your physician can consult with other persons to determine what your wishes are regarding the withholding or withdrawal of life support systems. If you have discussed your wishes with your physician, he or she will, of course, know your stated wishes. Your physician may also ask your health care agent, your next of kin or close relatives and your conservator, if one has been appointed, what you have told them about your wishes regarding withholding or withdrawing life support systems.

It is not recommended that you rely on oral instructions to these individuals to make your wishes known. If there is no living will, such instructions are required to be specific and may need to be proven in a court. You are better advised to complete a living will if you want to be sure that your wishes will be understood and known in the event you are unable to state them yourself.

What is a document of anatomical gift? It is document in which you make a gift of all or any part of your body to take effect upon death. Any adult may make an anatomical gift in writing, including through a will, a donor card or by a statement imprinted or attached to a motor vehicle operator's license. An anatomical gift may be made for the purpose of transplants, therapy, research, medical or dental education, or the advancement of medical or dental science. If you do not limit the gift's purpose to one or some of these uses, the gift can be used for any of these purposes. You may select who receives the gift - a hospital, physician, college, or an organ procurement group. You may also specify that the gift be used for transplant or therapy for a particular person. If no one is named to receive the gift, any hospital may do so.

Can I revoke an anatomical gift? Yes. An anatomical gift may be revoked or changed only by (1) a signed statement; (2) an oral statement in the presence of two witnesses; (3) or by informing your physician if you are in a terminal condition. An anatomical gift may not be revoked after the donor's death.

What if I have more questions? If you have additional questions about advance directives, discuss them with your physician and family. A social worker, patient representative or chaplain may be able to assist you, but they cannot provide legal advice. If you have legal questions, you should speak with a lawyer.

ADVANCE DIRECTIVES OF _____

To Any Physician Who Is Treating Me, this document contains the following:

1. My Living Will or Health Care Instructions
2. My Appointment of A Health Care Agent
3. My Appointment of An Attorney-in-Fact For Health Care Decisions
4. The Designation of My Conservator Of The Person For My Future Incapacity
5. My Document of Anatomical Gift

As my physician, you may rely on any information provided by my health care agent and decisions made by my attorney-in-fact for health care decisions or conservator of my person, if I am unable to make a decision for myself.

LIVING WILL or HEALTH CARE INSTRUCTIONS

If the time comes when I am incapacitated to the point when I can no longer actively take part in decisions for my own life, and am unable to direct my physician as to my own medical care, I wish this statement to stand as a testament of my wishes.

I, _____, the author of this document, request that, if my condition is deemed terminal or if I am determined to be permanently unconscious, I be allowed to die and not be kept alive through life support systems. By terminal condition, I mean that I have an incurable or irreversible medical condition which, without the administration of life support systems, will, in the opinion of my attending physician, result in death within a relatively short time. By permanently unconscious I mean that I am in a permanent coma or persistent vegetative state which is an irreversible condition in which I am at no time aware of myself or the environment and show no behavioral response to the environment.

Specific Instructions

Listed below are my instructions regarding particular types of life support systems. This list is not all-inclusive. My general statement that I not be kept alive through life support systems provided to me is limited only where I have indicated that I desire a particular treatment to be provided.

	<u>Provide</u>	<u>Withhold</u>
Cardiopulmonary Resuscitation	_____	_____
Artificial Respiration (including a respirator)	_____	_____
Artificial means of providing nutrition and hydration	_____	_____
_____	_____	_____
_____	_____	_____

Other specific requests:

I do want sufficient pain medication to maintain my physical comfort. I do not intend any direct taking of my life, but only that my dying not be unreasonably prolonged.

APPOINTMENT OF HEALTH CARE AGENT AND ATTORNEY-IN-FACT FOR HEALTH CARE DECISIONS

I appoint _____ to be my health care agent and my attorney-in-fact for health care decisions. If my attending physician determines that I am unable to understand and appreciate the nature and consequences of health care decisions and unable to reach and communicate an informed decision regarding treatment, _____ is authorized;

As My Health Care Agent to:

- 1. Convey to my physician my wishes concerning the withholding or removal of life support systems;
- 2. Take whatever actions are necessary to ensure that any wishes are given effect;

As My Attorney-In-Fact to:

- 1. Act in my name, place and stead in any way which I myself could do, if I were personally present, with respect to health care decisions as defined in the Connecticut Statutory Short Form Power of Attorney Act to the extent that I am permitted by law to act through an agent;
- 2. Consent, refuse or withdraw consent to any medical treatment other than that designed solely for the purpose of maintaining physical comfort, withdrawal of life support systems, or withdrawal of nutrition or hydration.

If _____ is unwilling or unable to serve as my health care agent and my attorney-in-fact for health care decisions, I appoint _____ to be my alternative health care agent and my attorney-in-fact for health care decisions.

DOCUMENT OF ANATOMICAL GIFT

I make no anatomical gift at this time. _____ (Initial here)

I hereby make this anatomical gift, _____ (Initial here)
if medically acceptable, to take effect upon my death

I give: (check one)

- _____ (1) any needed organs or parts
- _____ (2) only the following organs or parts

to be donated for: (check one)

- _____ (1) any of the purposes stated in subsection (a) of section 19a-279f of the CT general statutes
- _____ (2) these limited purposes _____.

DESIGNATION OF A CONSERVATOR OF THE PERSON

If a conservator of my person should need to be appointed, I designate _____, be appointed my conservator. If _____ is unwilling or unable to serve as my conservator, I designate _____. No bond shall be required of either of them in any jurisdiction.

These requests, appointments, and designations are made after careful reflection, while I am of sound mind. Any party receiving a duly executed copy or facsimile of this document may rely upon it unless such party has received actual notice of my revocation of it.

Date _____, 200____ x _____ L.S.

STATE OF CONNECTICUT)
: ss. _____
COUNTY OF _____) (Town)

Personally appeared _____, signer of the foregoing instrument, and acknowledged the same to be his/her free act and deed, before me, this _____ day of _____, 200____.

Commissioner of the Superior Court
Notary Public
My Commission expires: _____

WITNESSES' STATEMENTS

This document was signed in our presence by _____ the author of this document, who appeared to be eighteen years of age or older, of sound mind and able to understand the nature and consequences of health care decisions at the time this document was signed. The author appeared to be under no improper influence. We have subscribed this document in the author's presence and at the author's request and in the presence of each other.

x _____
(Witness)

x _____
(Witness)

x _____
(Number and Street)

x _____
(Number and Street)

x _____
(City, State and Zip Code)

x _____
(City, State and Zip Code)

(NOTE: This Form is Optional)

WITNESSES' AFFIDAVITS

STATE OF CONNECTICUT)
:
COUNTY OF _____) ss. _____ (Town)

We, the subscribing witnesses, being duly sworn, say that we witnessed the execution of these health care instructions, the appointments of a health care agent and an attorney-in-fact, the designation of a conservator for future incapacity and a document of anatomical gift by the author of this document; that the author subscribed, published and declared the same to be the author's instructions, appointments and designation in our presence; that we thereafter subscribed the document as witnesses in the author's presence, at the author's request and in the presence of each other; that at the time of the execution of said document the author appeared to us to be eighteen years of age or older, of sound mind, able to understand the nature and consequences of said document, and under no improper influence, and we make this affidavit at the author's request this ____ day of _____, 200____.

x _____ (Witness)

x _____ (Witness)

x _____ (Number and Street)

x _____ (Number and Street)

x _____ (City, State and Zip Code)

x _____ (City, State and Zip Code)

Personally appeared _____, signer of the foregoing instrument, and acknowledged the same to be his/her free act and deed, before me, this ____ day of _____, 200____.

Commissioner of the Superior Court
Notary Public
My Commission expires: _____

(Print or type name of all persons signing under all signatures)

Sec. 19a-279f. Persons who may become donees; purposes for which anatomical gifts may be made.

(a) The following persons may become donees of anatomical gifts for the purposes stated: (1) A hospital, physician, surgeon or procurement organization, for transplantation, therapy, medical or dental education, research, or advancement of medical or dental science; (2) an accredited medical or dental school, college or university for education, research, advancement of medical or dental science; or (3) a designated person for transplantation or therapy needed by that individual.

(b) An anatomical gift may be made to a designated donee or without designating a donee. If a donee is not designated or if the donee is not available or rejects the anatomical gift, the anatomical gift may be accepted by any hospital.

(c) If the donee knows of the decedent's refusal or contrary indications to make an anatomical gift or that an anatomical gift by a member of a class having priority to act is opposed by a member of the same class or a prior class under subsection (a) of section 19a-279c, the donee may not accept the anatomical gift.