

There is More to Consider Than the China

Our desire to be in control of our lives does not change when it comes to medical care decisions and treatment. We never know when we will be in a position to need medical treatment and may not be able to participate in the decision making process. Unscramble the confusion of legal terms and become familiar with how to help your loved ones as well as yourself. This program will offer you valuable information on how to prepare for the future.

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PURDUE AGRICULTURE

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Notes to lesson leader

Congratulations for selecting this topic to share with your friends. It is not an easy topic to discuss but one that will affect everyone at some time or another. We never know what the future holds and it is so much easier to face when we are as prepared as possible.

As you plan to present this lesson:

While the topic is a bit difficult to discuss, it is a topic that we all will face in our lives. If we are fortunate enough to always be able to express our wishes, our loved ones may not be as fortunate. While this lesson will not solve all issues for everyone, the intent is to start the thinking process, to motivate people to get advance directives and to be prepared for whatever the future will bring. Remember you are not a lawyer and will not have all the answers. You will, however, provide the people in your group a great deal of helpful information.

Presentation suggestions:

1. Use the “Are you a person who:” activity to focus the group’s thinking toward the topic.
2. Remember you are not a lawyer and cannot answer all questions. This program is a guide to get people talking and to motivate individuals to take an important step in their own health care.
3. If you choose, check with your local hospital for a publication entitled, “Indiana Advance Directives, Legal Documents To Assure Future Health Care Choices”. It is very useful and you can get copies for your members from their website at www.advir.com.
4. There are some situations to discuss. You might assign each topic to a few people to discuss and share or discuss as an entire group.
5. “The Things to Remember;” page can be copied and distributed to persons attending the lesson to help them become more aware of the terms and other things to remember.

Objectives for this lesson:

- To recognize the importance of personal records, wills, durable power of attorney, advance health directives, and living wills
- Gain awareness and knowledge of the kinds of personal information to be organized for family members to access
- Prepare to implement your wishes
- To identify sources of assistance in preparing advance directives and related items.

There is More to Consider Than the China

We never know what tomorrow holds. Even when you were rocking your first born you had big dreams for their future. As you go through life you acquire possessions and often you have thoughts of who you would like to have some of your treasured items. So often we think about who should inherit your wedding ring or who would most value the farm tool passed through the generations, or perhaps where Grandma's good china should go. But we fail to think about some of the more important decisions we all need to make. Who will be responsible to make our important decisions if the day comes that we cannot speak for ourselves?

Are you a person who:

- is reluctant to talk about death?
- is experiencing declining health and doesn't want to discuss loss of decision-making control?
- has a hard time making decisions, so nothing gets done?
- feels medical choices should be kept private?
- never thinks much about end-of-life health-care issues?
- thinks about getting professional help for legal affairs, but never gets around to it?

Why do we need to think about these things?

If you had a serious accident or illness that caused permanent loss of mental capacity, leaving you unable to tell your doctor which medical treatments you did or did not want, would your loved ones know what to do? Who would make these decisions for you? If you couldn't make your wishes known, how could you make sure they were respected?



If you're like most people, you probably haven't taken time to complete or discuss documents known as advance directives for health care. You are not alone. Studies in 2006 and 2007 indicated that only 30-40% of people had living wills or advanced directives. It might be more unsettling to think that if the majority of people do not have advance directives then it is very likely that severely ill or injured persons can put both

physicians and family members in a difficult bind. If family members disagree or have a difficult time facing the reality of a critical health situation, it can cause deep and long lasting division between family members. If a terminally ill parent lands in a hospital and daughter A tells the staff no, no feeding tube, will daughter B accuse her of killing their mother? If daughter B tells the staff to go ahead and turn on a respirator, will son C argue that no, after the Terry Schiavo case in Florida, their mother declared she never wanted to be kept alive by machines? Sometimes, a hospital ethics committee has to get involved. Sometimes, courts and lawyers do.

Advance directives include a living will and durable power of attorney for health care. They allow you to give instructions on these topics to your health-care providers and loved ones, relieving them of the burden of guessing what you want.

The choices you make as you prepare these documents should be based on your personal values, beliefs, preferences, and discussions with loved ones. Since it's impossible to foresee future circumstances or illness, think in general terms about what's important to you.

Unfortunately, many people think that creating an advance directive is complicated and expensive, and require a lawyer. Others think it is something needed only when older or very ill. The truth is that we never know when we will be in a position where we cannot make our own decisions regarding our health care. We need to be prepared.

If you do not have an advance directive and are unable to choose medical care or treatment Indiana law is written to decide who can make these decisions for you. Indiana Code 16036 allows any member of your immediate family (spouse, parent, adult child or sibling) or a person appointed by a court to make the choice for you.

Definitions:



Advance Directives for Health Care – Written instructions, such as a living will or durable power of attorney for health care recognized under state law. This document should be created in advance of serious illness stating your choices for health care and/or naming someone to make those decisions for you if you are unable. These legal documents can enable you to plan for and communicate your end-of-life decisions.

Informed Consent – Informed consent means you are able to understand the nature, extent, and probable consequences of proposed medical treatment and able to make rational evaluations of the risks and benefits of those treatments and can communicate that understanding in any way.

Types of advance directives recognized in Indiana:

Talking directly to your physician – Your physician needs to know what your wishes are and they will record them. Simply depending on the physician to carry out your wishes is a poor choice because other health care providers will not have access to these wishes. Also, if there is a disagreement, your written and signed document will fulfill legal requirements.

Health Care Representative – Someone you have named to make decisions about your health care, including decisions about life support when you can no longer speak for yourself. This appointment ends at your death. If the form has been notarized the health care representative can act as an attorney-in-fact and make advanced planning decisions regarding organ donation and final disposition of your body.

Power of Attorney – A notarized appointment of a Health Care Representative as *Attorney-in-fact* to make advanced planning decisions such as organ donation and final disposition.

Living Will – A documentation of your wishes concerning medical treatments at the end of life. It can list specific treatments you want or do not want during a terminal illness.

Organ and tissue donation- This is commonly done through signing your driver's license under the Indiana Uniform Anatomical Gift Act.

How do I develop these papers?

There are several online resources to assist you in developing advance directives and living wills. They include:

<http://www.caringinfo.org/>

<http://www.aarp.org/health/>

<http://www.extension.org/pages/13485/communicate-your-advance-directives>

<http://www.advdir.com/>



Your hospital will probably have materials to offer you to better understand and develop advance directives. A common one the hospital might have is titled, **“Indiana Advance Directives, Legal Documents To Assure Future Health Care Choices”**.

If you want to prepare a durable power of attorney you may choose to have it cover financial matters, or health care authority or both. This can involve more responsibility and you need to

discuss with the person what responsibilities you want them to handle. This document must be in writing and signed in the presence of a notary public.

Where should I store these papers?



Your living will and durable power of attorney for health care are important legal documents. It is important that you and other family members know where these papers are located. Keep your signed original documents in a secure, but accessible, place. The documents should be portable, readily available and available wherever you are in the world. Do not put the originals in your safe-deposit box or in another location from which it would be difficult for you or your health-care agent to retrieve them at whatever time they might be needed. A photo-copy can be placed in the safe deposit box. The documents need to be protected from fire, theft, flood and other natural disasters.

Give photocopies of the signed, dated originals to whomever you have designated to carry out your wishes. In addition to your health-care agent and alternate agent(s), the recipients of these copies should include your doctor(s), key family members, clergy, and even close friends who might become involved in your health care and medical treatment. It's wise to keep a copy in your vehicles or to carry a wallet card that refers to the documents' existence and location and names your health-care agent(s). If you enter a hospital, nursing home, or hospice, ask that photocopies be filed with your medical records. Current federal law mandates that all patients entering the hospital are asked if they have advance directive documentation. They cannot require you to complete the forms. If you take it with you for planned hospital admission the hospital will copy and file it. Once the hospital has a copy it will be in your file.

In case you decide to make changes in your advance directives, keep a list of who has current copies so that you can provide them with updated versions.

A good idea is to have a wallet card indicating that you have an advance directive and who the health care representative is and how to reach them.

Who should have copies?

As we have mentioned everyone involved in the advance directive needs a copy. If you have chosen one of your adult children to serve as your health care representative, it is a good idea to let the other adult children know of your wishes and perhaps why you chose the one you did. Your doctor will keep a copy in your file. Often clergy are asked to hold a copy since they are often called when there is a serious health care event. A close family friend would also be a good person to hold a copy for you. A copy, not the original, can be placed in your safe deposit box.

Can I change my advance directives?

You may change or cancel your advance directives at any time, as long as you are considered of sound mind to do so. Being of sound mind means that you are still able to think rationally and communicate your wishes in a clear manner. Your changes must be made on the advance directive forms that comply with your state's laws. Discard the original and copies of advance directives that no longer reflect your wishes. Make sure that your doctor and any family members who knew about your directives are aware that you have changed them, and give copies of your new documents to your doctor, health-care representative, clergy, family members, or trusted friends.

You should update your advance directives if your wishes change, if you move to a different state, and if the person you named as your health-care agent becomes unable to supervise your wishes or you no longer want that individual to serve in this capacity. You should also consider preparing new documents if you made and finalized documents many years ago. It is important that you discuss your decisions with your family and your health care provider. Your clergy is also a useful person to talk with as well as your attorney.

If you spend part of the year in another state, in general states recognize advance directives properly prepared out of state.

How do I talk to my family about my plans?

The best situation to foster communication among family members may be a formalized meeting to address concerns. The initiator might contact each person by phone, letter, or e-mail to suggest holding a meeting at a convenient time. Conducting end-of-life discussions during emotionally demanding events, such as holidays and family celebrations, may not be the best time for some families. A time when all are fresh may be better. However, holidays and family celebrations may be the only occasion when you can gather together—and a discussion like this could make it a particularly meaningful event.

Situations to Discuss

1. Sadie is in a coma and her doctor needs assistance in making treatment decisions. Sadie's husband is dead and there are no children. Several nieces and nephews live in the area. Sadie's nephew, Jake, says he will sign the form to act as Sadie's health care representative.

Can he sign the form?

2. Joe has completed a living will. His friends tell him he also needs a durable power of attorney for health care.

Aren't they the same thing?

Does Joe need both documents?

3. Jean's daughter has Jean's durable power of attorney for health care. Jean is very ill with bladder cancer and does not wish to continue with treatments or experimental drugs. Her daughter wants Jean to continue to take the medications and says that since she has power of attorney she can make the decision for her.

Is Jean's daughter right?

4. Lilly and Tom prepared advanced directives and named each other as health care representatives several years ago. Now Tom has Alzheimer's disease and is no longer able to make decisions. Lilly would like to change her directives to name a different agent.

Can she do that?

Discussion Answers

1. Sadie is in a coma and her doctor needs assistance in making treatment decisions. Sadie's husband is dead and there are no children. Several nieces and nephews live in the area. Sadie's nephew, Jake, says he will sign the form to act as Sadie's health care representative. *Can he sign the form?*

No. Jake cannot sign a Durable Power of Attorney for Health Care at this time. All forms must be initiated, signed and witnessed while you are capable of making decisions for yourself. Sadie needed to have chosen her own health care representative.
2. Joe has completed a living will. His friends tell him he also needs a durable power of attorney for health care. Aren't they the same thing? Does Joe need both documents?

Joe does not have to have both documents but each is helpful in assuring his wishes are respected. The documents have different functions. With a durable power of attorney for health care, the representative will make all the health care decisions, even those covered in a living will. But the living will also provide specific information for your doctor which helps your agent make decisions or provides direction if that person is unavailable. A living will refers only to life-sustaining procedures, not to other care provisions.
3. Jean's daughter has Jean's durable power of attorney for health care. Jean is very ill with bladder cancer and does not wish to continue with treatments or experimental drugs. Her daughter wants Jean to continue to take the medications and says that since she has power of attorney she can make the decision for her. Is Jean's daughter right?

No. Jean's daughter has misinterpreted the responsibilities of a durable power of attorney for health care. This person can only make decisions if you are unconscious, in a coma, or otherwise unable to communicate.
4. Lilly and Tom prepared advanced directives and named each other as health care representatives several years ago. Now Tom has Alzheimer's disease and is no longer able to make decisions. Lilly would like to change her directives to name a different agent. Can she do that?

Yes, Lilly can revise her document and name a new representative. You may change or cancel your advance directives at any time. You cannot change another person's advance directives.

Things to Remember:

Indiana Code 16036 allows any member of your immediate family (spouse, parent, adult child or sibling) or a person appointed by a court to make the choice for you. In case these persons are not available or to make decisions easier for them we all need to consider taking the step to make our personal wishes known. The following information will be helpful to you in planning your advance directives:

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<http://www.advdir.com/>

“Indiana Advance Directives, Legal Documents to Assure Future Health Care Choices”
Professional Media Resources, St Louis

Sources:

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<http://www.advdir.com/>

“Indiana Advance Directives, Legal Documents to Assure Future Health Care Choices”

Professional Media Resources, St Louis

Adult Children & Aging Parents, Conversations Between Generations,

Iowa State University, Purdue University

Advanced Directives, Your Right to Decide, Indiana State Department of Health

Advance Directive, Planning for Important Health Care Decisions, Indiana Edition

Caring Connections Alexandria VA