

# MICHIGAN Advance Directive Planning for Important Healthcare Decisions

## *Caring Connections*

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800/658-8898

Caring Connections, a program of the National Hospice and Palliative Care Organization (NHPCO), is a national consumer engagement initiative to improve care at the end of life.

Caring Connections tracks and monitors all state and federal legislation and significant court cases related to end-of-life care to ensure that our advance directives are up to date.

### **It's About How You LIVE**

*It's About How You LIVE* is a national community engagement campaign encouraging individuals to make informed decisions about end-of-life care and services. The campaign encourages people to:

**L**earn about options for end-of-life services and care

**I**mplement plans to ensure wishes are honored

**V**oice decisions to family, friends and healthcare providers

**E**ngage in personal or community efforts to improve end-of-life care

## Using these Materials

### BEFORE YOU BEGIN

1. Check to be sure that you have the materials for each state in which you may receive healthcare.
2. These materials include:
  - Instructions for preparing your advance directive., please read all the instructions.
  - Your state-specific advance directive forms, which are the pages with the gray instruction bar on the left side.

### ACTION STEPS

3. You may want to photocopy these forms before you start so you will have a clean copy if you need to start over.
4. When you begin to fill out the forms, refer to the gray instruction bars - they will guide you through the process.
5. Talk with your family, friends, and physicians about your advance directive. Be sure the person you appoint to make decisions on your behalf understands your wishes.
6. Once the form is completed and signed, photocopy the form and give it to the person you have appointed to make decisions on your behalf, your family, friends, healthcare providers and/or faith leaders so that the form is available in the event of an emergency.

## Introduction to Your Michigan Advance Directive

This packet contains the *Advance Directive for Healthcare* which protects your right to refuse medical treatment you do not want or to request treatment you do want in the event you lose the ability to make decisions yourself. Michigan does not have a statute governing the use of living wills, therefore there is no living will for the state of Michigan.

The **Michigan Designation of Patient Advocate for Healthcare** lets you name someone to make decisions about your medical care — including decisions about life support, mental health treatment and anatomical gifts—if you can no longer speak for yourself. The Designation of Patient Advocate for Healthcare is especially useful because it appoints someone to speak for you any time you are unable to make your own medical or mental health treatment decisions, not only at the end of life. It becomes effective:

- in the case of medical treatment decisions, when your doctor and one other physician or licensed psychologist examine you and determine in writing that you are unable to make medical treatment decisions. The written determination shall be made part of your medical record (prior to its implementation) and must be reviewed at least once a year;
- in the case of mental health treatment decisions, your patient advocate may only exercise his or her authority if a licensed physician and a mental health practitioner both certify, in writing and after examining you, that you are unable to give informed consent to mental health treatment.

*Note: These documents will be legally binding only if the person completing it is a competent adult (at least 18 years old).*

## **Completing Your Michigan Designation of Patient Advocate for Healthcare**

### **Whom should I appoint as my patient advocate?**

Your patient advocate is the person you appoint to make decisions about your medical care, mental health treatment, and anatomical gifts if you become unable to make those decisions yourself. Your patient advocate may be a family member or a close friend whom you trust to make serious decisions. The person you name as your patient advocate must be an adult who is of sound mind and clearly understands your wishes and is willing to accept the responsibility of making medical, mental health, and anatomical gift decisions for you. (A patient advocate may also be called an “attorney-in-fact,” “agent” or “proxy.”)

You can appoint a second person as your alternate patient advocate. The alternate will step in if the first person you name as patient advocate does not accept, is incapacitated, resigns, or is removed.

### **How do I make my Michigan Designation of Patient Advocate for Healthcare legal?**

The law requires that you sign your Designation in the presence of two witnesses, who must also sign the document to show that you voluntarily signed the Designation in their presence and that you appear to be of sound mind and under no duress, fraud or undue influence. These witnesses **cannot** be:

- your spouse, parent, child, grandchild or sibling,
- a person who stands to inherit from your estate, either by law or through a will,
- a physician or patient advocate,
- an employee of your life or health insurance provider,
- an employee of your treating health, or mental health, care facility, or
- an employee of a home for the aged, if you are a patient in that facility.

*Note: You do not need to notarize your Michigan Designation.*

### **Should I add personal instructions to my Michigan Designation of Patient Advocate for Healthcare?**

One of the strongest reasons for naming a patient advocate is to have someone who can respond flexibly as your medical and/or mental health situation changes and deal with situations that you did not foresee. If you add limitations to this document, you might unintentionally restrict your patient advocate’s power to act in your best interest.

## **COMPLETING YOUR MICHIGAN DESIGNATION OF PATIENT ADVOCATE FOR HEALTHCARE (CONTINUED)**

Talk with your patient advocate about your future medical care and mental health treatment and describe what you consider to be an acceptable "quality of life." Your patient advocate is required by Michigan Law to take reasonable steps to follow your desires, instructions, or guidelines, even if given orally while you are still able to participate in decisions regarding your medical care and donation of organs or physical parts.

### **What if I change my mind?**

You may revoke your Designation at any time and in any manner, regardless of your ability to make medical and/or mental health treatment decisions, so long as you are able to communicate your intent to revoke the Designation. If your revocation is not in writing, you are required to have a witness to your revocation who must sign a written description of the revocation and, if possible, notify your patient advocate. Your Designation is automatically revoked if:

- your death occurs, except that the designation of authority to your patient advocate to make an anatomical gift is not revoked upon your death,
- your patient advocate resigns or is removed by a probate court for failing to act in your best interests (unless you have appointed an alternate),
- you execute a subsequent Designation,
- you have explicitly made a provision for revocation in your document, or
- you name your spouse as your patient advocate and your marriage ends (unless you have appointed an alternate).

You may waive your right to revoke the designation as to the power to make mental health treatment decisions by making the waiver part of the designation. However, if you revoke a designation in which you have waived your right to revoke, your revocation will be delayed for no more than 30 consecutive days.

### **What other important facts should I know?**

- Due to restrictions in the state law, a patient advocate does not have the authority to decide to withhold or withdraw treatment from a pregnant patient that would result in the pregnant patient's death.
- Your patient advocate and alternate (if any) must receive a copy of your document and date and sign an acceptance to the Designation on page 4 before he or she can make medical decisions on your behalf.

## COMPLETING YOUR MICHIGAN DESIGNATION OF PATIENT ADVOCATE FOR HEALTHCARE (CONTINUED)

- If you have religious convictions that prohibit you from being examined by a physician, you can add instructions to your designation stating that you do not wish to be examined by a physician. You must then state in your Designation how it shall be determined when your patient advocate has authority to make decisions on your behalf.
- With regard to mental health treatment decisions, the patient advocate has the authority to consent to the forced administration of medication or to inpatient hospitalization as a formal voluntary patient, but only if you express in clear and convincing manner that your patient advocate is authorized to consent to such treatment.
- With regarding to mental health treatment decisions, you may identify in the designation a physician, a mental health practitioner, or both, to make the determination that you are unable to give informed consent to mental health treatment. If the physician or mental health practitioner is unable or unwilling to conduct the examination and determination within a reasonable time, the examination and determination shall be made by another physician and/or mental health practitioner, as applicable.

INSTRUCTIONS

MICHIGAN DESIGNATION OF PATIENT ADVOCATE  
FOR HEALTH CARE – PAGE 1 OF 5

PRINT YOUR NAME  
AND ADDRESS

I \_\_\_\_\_  
(name)

-----  
(address)

am of sound mind, and I voluntarily make this designation.

PRINT THE NAME,  
ADDRESS AND  
PHONE NUMBERS  
OF YOUR PATIENT  
ADVOCATE

I designate \_\_\_\_\_  
(name of patient advocate)

residing at \_\_\_\_\_  
(address)

-----  
(home phone number) (work phone number)

as my patient advocate to make care, custody, medical or mental health treatment decisions for me only when I become unable to participate in medical treatment decisions. The determination of when I am unable to participate in medical and/or mental health treatment decisions shall be made by my attending physician and another physician or licensed psychologist.

PRINT THE NAME,  
ADDRESS AND  
PHONE NUMBERS  
OF YOUR  
ALTERNATE  
PATIENT ADVOCATE

If the first individual is unable, unwilling, or unavailable to serve as my patient advocate, then I designate:

-----  
(name of successor agent)

residing at \_\_\_\_\_  
(address)

-----  
(home phone number) (work phone number)

to serve as my patient advocate.

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**MICHIGAN DESIGNATION OF PATIENT ADVOCATE FOR  
HEALTH CARE - PAGE 2 OF 5**

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I authorize my patient advocate to decide to withhold or withdraw medical and mental health treatment which could or would allow me to die. I am fully aware that such a decision could or would lead to my death.

In making decisions for me, my patient advocate shall be guided by my wishes, whether expressed orally, in a living will, or in this designation. If my wishes as to a particular situation have not been expressed, my patient advocate shall be guided by his or her best judgment of my probable decision, given the benefits, burdens and consequences of the decision, even if my death, or the chance of my death, is one consequence.

My patient advocate shall have the same authority to make care, custody, and medical and mental health treatment decisions as I would if I had the capacity to make them EXCEPT (*here list the limitations, if any, you wish to place on your patient advocate's authority*):

In the hope that I may help others, I authorize my patient advocate to make this anatomical gift if medically acceptable, to take effect upon my death and to resolve any conflict between the terms of this Designation and the administration of means necessary to ensure the medical suitability of my anatomical gift. The words and marks below indicate my desires.

Upon my death, I wish to donate:

- My body for anatomical study if needed.
  - Any needed organs, tissues, or eyes.
  - Only the following organs, tissues, or eyes:
- 

I authorize the use of my organs, tissues, or eyes:

- For transplantation
- For therapy
- For research
- For medical education
- For any purpose authorized by law.

This authority granted to my patient advocate to make an anatomical gift is limited as follows (*here list limitations or special wishes, if any*):

LIST LIMITATIONS  
TO YOUR PATIENT  
ADVOCATE'S  
AUTHORITY  
(IF ANY)

CROSS OUT THIS  
STATEMENT IF YOU  
DO NOT  
AUTHORIZE YOUR  
PATIENT ADVOCATE  
TO MAKE AN  
ANATOMICAL GIFT  
OF YOUR ORGANS  
OR PHYSICAL  
PARTS.

LIST LIMITATIONS  
OR SPECIAL  
WISHES, IF ANY

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**MICHIGAN DESIGNATION OF PATIENT ADVOCATE FOR  
HEALTH CARE - PAGE 3 OF 5**

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This designation of patient advocate shall not be affected by my disability or incapacity. This designation of patient advocate is governed by Michigan law, although I request that it be honored in any state in which I may be found. I reserve the power to revoke this designation at any time by communicating my intent to revoke it in any manner in which I am able to communicate.

Photostatic copies of this document, after it is signed and witnessed, shall have the same legal force as the original document.

I voluntarily sign this designation of patient advocate after careful consideration. I accept its meaning and I accept its consequences.

\_\_\_\_\_ (your signature)

\_\_\_\_\_ (date)

\_\_\_\_\_ (your street address)

\_\_\_\_\_ (city, Michigan, zip code)

SIGN AND DATE  
YOUR DOCUMENT  
AND PRINT YOUR  
ADDRESS

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**MICHIGAN DESIGNATION OF PATIENT ADVOCATE FOR  
HEALTH CARE — PAGE 4 OF 5**

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**Statement of Witnesses**

We sign below as witnesses. This designation was signed in our presence. The designator appears to be of sound mind, and to be making this designation voluntarily, and under no duress, fraud, or undue influence.

Witness 1: \_\_\_\_\_  
(signature)

-----  
(print or type full name)

-----  
(address)

Witness 2: \_\_\_\_\_  
(signature)

-----  
(print or type full name)

-----  
(address)

**Acceptance by Patient Advocate and Successor Advocate (If Any)**

(A) This designation shall not become effective unless the patient is unable to participate in treatment decisions. If the patient advocate designation includes the authority to make an anatomical gift, that authority remains exercisable only after the patient's death.

(B) A patient advocate shall not exercise powers concerning the patient's care, custody and medical and/or mental health treatment that the patient, if the patient were able to participate in the decision, could not have exercised on his or her own behalf.

(C) This designation cannot be used to make a medical treatment decision to withhold or withdraw treatment from a patient who is pregnant that would result in the patient's death.

(D) A patient advocate may make a decision to withhold or withdraw treatment which would allow a patient to die only if the patient has expressed in a clear and convincing manner that the patient advocate is authorized to make such a decision, and that the patient acknowledges that such a decision could or would allow the patient's death.

(E) A patient advocate shall not receive compensation for the performance of his or her authority, rights, and responsibilities, but a patient advocate may be reimbursed for actual and necessary expenses incurred in performance of his or her authority, rights, and responsibilities.

WITNESSING  
PROCEDURE

WITNESSES MUST  
SIGN AND PRINT  
THEIR NAME AND  
ADDRESS

ACCEPTANCE  
STATEMENT

**MICHIGAN DESIGNATION OF PATIENT ADVOCATE FOR  
HEALTH CARE — PAGE 5 OF 5**

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(F) A patient advocate shall act in accordance with the standards of care applicable to fiduciaries when acting for the patient and shall act consistent with the patient's best interests. The known desires of the patient expressed or evidenced while the patient is able to participate in medical and/or mental health treatment decisions are presumed to be in the patient's best interests.

(G) A patient may revoke his or her designation at any time and in any manner sufficient to communicate an intent to revoke.

(H) A patient may waive his or her right to revoke the patient advocate designation as to the power to make mental health treatment decisions, and if such a waiver is made, his or her ability to revoke the designation as to certain treatment will be delayed 30 days after the patient communicates his or her intent to revoke.

(I) A patient admitted to a health facility or agency has the rights enumerated in Section 20201 of the Public Health Code, Act No. 368 of the Public Acts of 1978, being section 333.20201 of the Michigan Compiled Laws.

(J) A patient advocate may revoke his or her acceptance of the patient advocate designation at any time and in any manner sufficient to communicate intent to revoke.

YOUR PATIENT  
ADVOCATE MUST  
SIGN AND DATE  
YOUR DOCUMENT  
HERE

YOUR ALTERNATE  
PATIENT ADVOCATE  
MUST SIGN AND  
DATE YOUR  
DOCUMENT  
HERE

I understand the above conditions and I accept the designation as patient advocate for

\_\_\_\_\_  
(name of principal)

Dated \_\_\_\_\_ Signed \_\_\_\_\_

I understand the above conditions and I accept the designation of successor patient advocate for

\_\_\_\_\_  
(name of principal)

Dated \_\_\_\_\_ Signed \_\_\_\_\_

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## **You Have Filled Out Your Advance Directive, Now What?**

1. Your Michigan Designation of Patient Advocate for Healthcare and Caring Connections Living Will are important legal documents. Keep the original signed documents in a secure but accessible place. Do not put the original documents in a safe deposit box or any other security box that would keep others from having access to them.
2. Give photocopies of the signed originals to your patient advocate and alternate patient advocate, doctor(s), family, close friends, clergy and anyone else who might become involved in your healthcare. If you enter a nursing home or hospital, have photocopies of your documents placed in your medical records.
3. Be sure to talk to your patient advocate and alternate, doctor(s), clergy, and family and friends about your wishes concerning medical treatment. Discuss your wishes with them often, particularly if your medical condition changes.
4. If you want to make changes to your documents after they have been signed and witnessed, you must complete new documents.
5. Remember, you can always revoke your Michigan Designation of Patient Advocate for Healthcare or your Caring Connections Living Will.
6. Be aware that your Michigan documents will not be effective in the event of a medical emergency. Ambulance personnel are required to provide cardiopulmonary resuscitation (CPR) unless they are given a separate order that states otherwise. These orders, commonly called "non-hospital do-not-resuscitate orders," are designed for people whose poor health gives them little chance of benefiting from CPR. These orders must be signed by your physician and instruct ambulance personnel not to attempt CPR if your heart or breathing should stop.

Currently not all states have laws authorizing non-hospital do-not-resuscitate orders. We suggest that you speak to your physician. **Caring Connections does not distribute these forms.**