

WEST VIRGINIA Advance Directive Planning for Important Healthcare Decisions

Caring Connections

1731 King St., Suite 100, Alexandria, VA 22314

www.caringinfo.org

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

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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 WEST VIRGINIA ADVANCE DIRECTIVES

This packet contains three legal documents that protect 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:

1. The **West Virginia Medical Power of Attorney** lets you name someone to make decisions about your medical care—including decisions about life support—if you can no longer speak for yourself. The Medical Power of Attorney is especially useful because it appoints someone to speak for you any time you are unable to make your own medical decisions, not only at the end of life.
2. The **West Virginia Living Will** lets you state your wishes about medical care in the event that you become terminally ill or enter a persistent vegetative state and can no longer make your own medical decisions. Your Living Will goes into effect when your doctor certifies in writing that you are terminally ill or in a persistent vegetative state.
3. The **West Virginia Combined Medical Power of Attorney and Living Will** (optional) lets you name someone to make decisions about your medical care and state your wishes about medical care in the event that you become terminally ill or enter a persistent vegetative state and can no longer make your own decisions.

You have **three options** to complete these documents: to complete only a Living Will, only a Medical Power of Attorney form, or the combined medical Power of Attorney and Living Will form.

Note: These documents will be legally binding only if the person completing them is a competent adult (at least eighteen years old); an emancipated minor or a mature minor.

COMPLETING YOUR WEST VIRGINIA MEDICAL POWER OF ATTORNEY

Whom should I appoint as my representative?

Your representative is the person you appoint to make decisions about your medical care if you become unable to make those decisions yourself. Your representative may be a family member or a close friend whom you trust to make serious decisions. The person you name as your representative should clearly understand your wishes and be willing to accept the responsibility of making medical decisions for you.

The person you appoint as your representative **cannot** be:

- your treating healthcare provider;
- an employee of your treating healthcare provider, unless related to you;
- an owner, operator, or administrator of a healthcare facility in which you are a patient or in which you reside; or
- an employee, owner, operator, or administrator of a healthcare facility in which you are a patient or in which you reside, unless related to you.

You can appoint additional individuals as your successor representative. The successor will step in if the first person you name as your healthcare representative is unable, unwilling or unavailable to act for you.

How do I make my West Virginia Medical Power of Attorney legal?

The law requires that you sign your Medical Power of Attorney in the presence of two adult witnesses and have your signature and your witnesses' signatures acknowledged before a notary public. If you are physically unable to sign, another adult can sign at your express direction and in your presence.

These witnesses **cannot** be:

- the person who signed the document on your behalf;
- related to you by blood or marriage;
- any person with knowledge that they are entitled to any portion of your estate through the operation of law or through any will or codicil;
- legally responsible for the cost of your healthcare;
- your attending physician; or
- your healthcare representative or successor healthcare representative.

COMPLETING YOUR WEST VIRGINIA MEDICAL POWER OF ATTORNEY (CONTINUED)

Should I add personal instructions to my West Virginia Medical Power of Attorney?

One of the strongest reasons for naming a healthcare representative is to have someone who can respond flexibly as your medical situation changes and deal with situations that you did not foresee. If you add further instructions to this document, you might unintentionally restrict your healthcare representative's power to act in your best interest.

Talk with your healthcare representative about your future medical care and describe what you consider to be an acceptable "quality of life." If you want to record your wishes about specific treatments or conditions, you should use the West Virginia Living Will.

What if I change my mind?

The law allows you to revoke your medical power of attorney at any time by:

- physically destroying the document;
- signing and dating a written revocation that is given to your doctor; or
- orally revoking your document in the presence of a witness at least eighteen years of age, who must sign and date a written confirmation of your revocation.

COMPLETING YOUR WEST VIRGINIA LIVING WILL

How do I make my West Virginia Living Will legal?

In order to make your Living Will legally binding, you must sign the document in the presence of two adult witnesses and have your signature and your witnesses' signatures acknowledged before a notary public. If you are physically unable to sign, another adult can sign at your express direction and in your presence.

The two witnesses **cannot** be:

- the person who signed the document on your behalf;
- related to you by blood or marriage;
- any person with knowledge that they are entitled to any portion of your estate through the operation of law or through any will or codicil;
- legally responsible for the cost of your healthcare;
- your attending physician; or
- your healthcare representative or successor healthcare representative if you have executed a Medical Power of Attorney.

Can I add instructions to my Living Will?

Yes. You can add personal instructions in the part of the document which is called "Special Directives or Limitations."

If you have appointed a representative, it is a good idea to write a statement such as, "Any questions about how to interpret or when to apply my Living Will are to be made by my agent."

It is important to learn about the kinds of life-sustaining treatment you might receive. Consult your doctor for more information.

What if I change my mind?

If you feel that your Living Will no longer reflects your wishes, the law allows you to revoke your Living Will at any time by:

- physically destroying the document;
- signing and dating a written revocation that is given to your doctor; or
- orally revoking your document in the presence of a witness at least eighteen years of age, who must sign and date a written confirmation of your revocation.

**WEST VIRGINIA
MEDICAL POWER OF ATTORNEY— PAGE 2 OF 3**

I appoint this representative because I believe this person understands my wishes and values and will act to carry into effect the health care decisions that I would make if I were able to do so, and because I also believe that this person will act in my best interests when my wishes are unknown. It is my intent that my family, my physician and all legal authorities be bound by the decisions that are made by the representative appointed by this document, and it is my intent that these decisions should not be the subject of review by any health care provider, or administrative or judicial agency.

It is my intent that this document be legally binding and effective and that this document be taken as a formal statement of my desire concerning the method by which any health care decisions should be made on my behalf during any period when I am unable to make such decisions.

In exercising the authority under this medical power of attorney, my representative shall act consistently with my special directives or limitations as stated below.

I am giving the following SPECIAL DIRECTIVES OR LIMITATIONS ON THIS POWER: (Comments about tube feedings, breathing machines, cardiopulmonary resuscitation, dialysis, funeral arrangements, autopsy and organ donation may be placed here. My failure to provide special directives or limitations does not mean that I want or refuse certain treatments.)

ADD PERSONAL
INSTRUCTIONS
(IF ANY)

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**WEST VIRGINIA
MEDICAL POWER OF ATTORNEY— PAGE 3 OF 3**

This medical power of attorney shall become effective only upon my incapacity to give, withhold or withdraw informed consent to my own medical care.

SIGN YOUR
NAME

X _____
(signature of principal)

WITNESSING
PROCEDURE

I did not sign the principal's signature above. I am at least eighteen years of age and am not related to the principal by blood or marriage. I am not entitled to any portion of the estate of the principal or to the best of my knowledge under any will of the principal or codicil thereto, or legally responsible for the costs of the principal's medical or other care. I am not the principal's attending physician, nor am I the representative or successor representative of the principal.

TWO WITNESSES
MUST READ THIS
STATEMENT AND
SIGN BELOW

WITNESS: _____ DATE: _____

WITNESS: _____ DATE: _____

STATE OF _____

COUNTY OF _____,

I, _____, a Notary Public of said County, do certify that _____, as principal, and _____ and _____, as witnesses, whose names are signed to the writing above bearing date on the _____ day of _____, 20____, have this day acknowledged the same before me.

Given under my hand this _____ day of _____, 20____.

My commission expires: _____

A NOTARY
PUBLIC MUST
COMPLETE THIS
SECTION OF YOUR
DOCUMENT

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WEST VIRGINIA LIVING WILL — PAGE 1 OF 3

INSTRUCTIONS

THE KIND OF MEDICAL TREATMENT I WANT AND DON'T WANT IF I HAVE A TERMINAL CONDITION OR AM IN A PERSISTENT VEGETATIVE STATE

PRINT THE DATE

Living will made this _____ day of _____, _____.
(day) (month) (year)

PRINT YOUR NAME

I _____,
(print name)

being of sound mind, willfully and voluntarily declare that I want my wishes to be respected if I am very sick and not able to communicate my wishes for myself. In the absence of my ability to give directions regarding the use of life-prolonging medical intervention, it is my desire that my dying shall not be prolonged under the following circumstances:

If I am very sick and not able to communicate my wishes for myself and I am certified by one physician who has personally examined me, to have a terminal condition or to be in a persistent vegetative state (I am unconscious and am neither aware of my environment nor able to interact with others,) I direct that life-prolonging medical intervention that would serve solely to prolong the dying process or maintain me in a persistent vegetative state be withheld or withdrawn. I want to be allowed to die naturally and only be given medications or other medical procedures necessary to keep me comfortable. I want to receive as much medication as is necessary to alleviate my pain.

I give the following SPECIAL DIRECTIVES OR LIMITATIONS: (Comments about tube feedings, breathing machines, cardiopulmonary resuscitation, dialysis and mental health treatment may be placed here. My failure to provide special directives or limitations does not mean that I want or refuse certain treatments.)

ADD PERSONAL INSTRUCTIONS (IF ANY)

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ORGAN DONATION
(OPTIONAL)

ORGAN DONATION (OPTIONAL)

Under West Virginia law, you may make a gift of all or part of your body to a bank or storage facility or a hospital, physician or medical or dental school for transplantation, therapy, medical or dental evaluation or research or for the advancement of medical or dental science. In the space below you may make a gift yourself or state that you do not want to make a gift. You may revoke an anatomical gift at any time by: (1) Writing signed in the same manner as a document of gift; (2) A statement attached to or imprinted on a donor's motor vehicle operator' license; or (3) Any other writing used to identify the individual as refusing to make an anatomical gift. During a terminal illness or injury, the refusal may be an oral statement or other form of communication.

When a person 18 years of age or older applies for a driver's license or renewal, a question as to whether he or she wishes to donate his or her organs shall be in the application, and the response shall be noted on the license and the donor's information will be transmitted to the state's organ donor registry. Individuals between the ages of 12 and 17 may also become organ donors with parental consent. Revocation suspension, expiration or cancellation of the license does not invalidate the gift.

Initial the line next to the statement below that best reflects your wishes. You do not have to initial any of the statements. If you do not initial any of the statements, your agent and your family will have the authority to make a gift of all or part of your body under West Virginia law.

_____ I do not want to make an organ or tissue donation and I do not want my agent or family to do so.

_____ I have already signed a written agreement or donor card regarding organ and tissue donation with the following individual or institution:

Name of individual/organization: _____

_____ Pursuant to West Virginia law, I hereby give, effective on my death(Select one)

_____ Any needed organ or parts.

_____ The following part or organs listed below:

For (initial one):

_____ Any legally authorized purpose.

_____ Transplant or therapeutic purposes only.

INITIAL THE
STATEMENT THAT
BEST REFLECTS
YOUR WISHES

WEST VIRGINIA LIVING WILL — PAGE 3 OF 3

INSTRUCTIONS

**SIGN AND
PRINT YOUR
ADDRESS**

**WITNESSING
PROCEDURE**

**TWO WITNESSES
MUST READ THIS
STATEMENT
AND SIGN IN
THE PRESENCE
OF A NOTARY**

**A NOTARY
PUBLIC MUST
COMPLETE THIS
SECTION OF
YOUR DOCUMENT**

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It is my intention that this living will be honored as the final expression of my legal right to refuse medical or surgical treatment and accept the consequences resulting from such refusal.

I understand the full importance of this living will.

Signed _____

Address _____

I did not sign the principal's signature above for or at the direction of the principal. I am at least eighteen years of age and am not related to the principal by blood or marriage, entitled to any portion of the estate of the principal to the best of my knowledge under any will of principal or codicil thereto, or directly financially responsible for principal's medical care. I am not the principal's attending physician or the principal's medical power of attorney representative or successor medical power of attorney representative under a medical power of attorney.

WITNESS: _____ DATE: _____

WITNESS: _____ DATE: _____

STATE OF _____

COUNTY OF _____

I, _____, a Notary Public of said County, do certify that _____, as principal, and _____ and _____, as witnesses, whose names are signed to the writing above bearing date on the _____ day of _____, 20____, have this day acknowledged the same before me.

Given under my hand this _____ day of _____, 20____.

My commission expires: _____

(notary public)

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INSTRUCTIONS

PRINT THE DATE

PRINT YOUR NAME

PRINT THE NAME, ADDRESS AND TELEPHONE NUMBER OF YOUR REPRESENTATIVE

PRINT THE NAME, ADDRESS AND TELEPHONE NUMBER OF YOUR SUCCESSOR REPRESENTATIVE

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**WEST VIRGINIA
COMBINED MEDICAL POWER OF ATTORNEY
AND LIVING WILLPAGE 1 OF 4**

The Person I Want to Make Health Care Decisions
For Me When I Can't Make Them For Myself And The
Kind of Medical Treatment I Want and Don't Want
If I Have a Terminal Condition or Am In a
Persistent Vegetative State

Dated: _____, 20____

I, _____, hereby
appoint as my representative to act on my behalf to give, withhold or
withdraw informed consent to health care decisions in the event that I
am not able to do so myself.

The person I choose as my representative is:

_____.

If my representative is unable, unwilling or disqualified to serve, then I
appoint as my successor representative:

_____.

This appointment shall extend to, but not be limited to, health care
decisions relating to medical treatment, surgical treatment, nursing care,
medication, hospitalization, care and treatment in a nursing home or
other facility, and home health care. The representative appointed by this
document is specifically authorized to be granted access to my medical
records and other health information and to act on my behalf to consent
to, refuse or withdraw any and all medical treatment or diagnostic
procedures, or autopsy if my representative determines that I, if able to
do so, would consent to, refuse or withdraw such treatment or
procedures. Such authority shall include, but not be limited to, decisions
regarding the withholding or withdrawal of life-prolonging interventions.

I appoint this representative because I believe this person understands
my wishes and values and will act to carry into effect the health care
decisions that I would make if I were able to do so, and because I also
believe that this person will act in my best interest when my wishes are
unknown. It is my intent that my family, my physician and all legal
authorities be bound by the decisions that are made by the
representative appointed by this document, and it is my intent that these
decisions should not be the subject of review by any health care provider
or administrative or judicial agency.

**WEST VIRGINIA
COMBINED MEDICAL POWER OF ATTORNEY
AND LIVING WILL PAGE 2 OF 4**

It is my intent that this document be legally binding and effective and that this document be taken as a formal statement of my desire concerning the method by which any health care decisions should be made on my behalf during any period when I am unable to make such decisions.

In exercising the authority under this medical power of attorney, my representative shall act consistently with my special directives or limitations as stated below.

I am giving the following SPECIAL DIRECTIVES OR LIMITATIONS ON THIS POWER: (Comments about tube feedings, breathing machines, cardiopulmonary resuscitation, dialysis, mental health treatment, funeral arrangements, autopsy, and organ donation may be placed here. My failure to provide special directives or limitations does not mean that I want or refuse certain treatments).

1. If I am very sick and not able to communicate my wishes for myself and I am certified by one physician who has personally examined me, to have a terminal condition or to be in a persistent vegetative state (I am unconscious and am neither aware of my environment nor able to interact with others,) I direct that life-prolonging medical intervention that would serve solely to prolong the dying process or maintain me in a persistent vegetative state be withheld or withdrawn. I want to be allowed to die naturally and only be given medications or other medical procedures necessary to keep me comfortable. I want to receive as much medication as is necessary to alleviate my pain.

2. Other directives: _____

ADD PERSONAL
INSTRUCTIONS
(IF ANY)

**WEST VIRGINIA
COMBINED MEDICAL POWER OF ATTORNEY
AND LIVING WILL PAGE 3 OF 4**

ORGAN DONATION
(OPTIONAL)

ORGAN DONATION (OPTIONAL)

Under West Virginia law, you may make a gift of all or part of your body to a bank or storage facility or a hospital, physician or medical or dental school for transplantation, therapy, medical or dental evaluation or research or for the advancement of medical or dental science. In the space below you may make a gift yourself or state that you do not want to make a gift. You may revoke an anatomical gift at any time by: (1) Writing signed in the same manner as a document of gift; (2) A statement attached to or imprinted on a donor's motor vehicle operator' license; or (3) Any other writing used to identify the individual as refusing to make an anatomical gift. During a terminal illness or injury, the refusal may be an oral statement or other form of communication.

When a person 18 years of age or older applies for a driver's license or renewal, a question as to whether he or she wishes to donate his or her organs shall be in the application, and the response shall be noted on the license and the donor's information will be transmitted to the state's organ donor registry. Individuals between the ages of 12 and 17 may also become organ donors with parental consent. Revocation suspension, expiration or cancellation of the license does not invalidate the gift.

Initial the line next to the statement below that best reflects your wishes. You do not have to initial any of the statements. If you do not initial any of the statements, your agent and your family will have the authority to make a gift of all or part of your body under West Virginia law.

_____ I do not want to make an organ or tissue donation and I do not want my agent or family to do so.

_____ I have already signed a written agreement or donor card regarding organ and tissue donation with the following individual or institution:

Name of individual/organization: _____

_____ Pursuant to West Virginia law, I hereby give, effective on my death (Select one)

_____ Any needed organ or parts.

_____ The following part or organs listed below:

For (initial one):

_____ Any legally authorized purpose.

_____ Transplant or therapeutic purposes only.

INITIAL THE
STATEMENT THAT
BEST REFLECTS
YOUR WISHES

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**WEST VIRGINIA
COMBINED MEDICAL POWER OF ATTORNEY
AND LIVING WILL PAGE 4 OF 4**

THIS MEDICAL POWER OF ATTORNEY SHALL BECOME EFFECTIVE ONLY UPON MY INCAPACITY TO GIVE, WITHHOLD OR WITHDRAW INFORMED CONSENT TO MY OWN MEDICAL CARE.

SIGN YOUR
NAME

Signature of the Principal

WITNESSING
PROCEDURE

I did not sign the principal's signature above. I am at least eighteen years of age and am not related to the principal by blood or marriage. I am not entitled to any portion of the estate of the principal or to the best of my knowledge under any will of the principal or codicil thereto, or legally responsible for the costs of the principal's medical or other care. I am not the principal's attending physician, nor am I the representative or successor representative of the principal.

TWO WITNESSES
MUST READ THIS
STATEMENT AND
SIGN BELOW

Witness #1 _____ DATE _____

Witness #2 _____ DATE _____

STATE OF _____

COUNTY OF _____

A NOTARY
PUBLIC MUST
COMPLETE THIS
SECTION OF YOUR
DOCUMENT

I, _____, a Notary Public of said
_____ county, do certify that _____, as
principal, and _____ and _____,
as witnesses, whose names are signed to the writing above bearing date
on the _____ day of _____, 20____, have this day
acknowledged the same before me.

Given under my hand this _____ day of _____, 20____.

My commission expires: _____

Signature of Notary Public

You Have Filled Out Your Advance Directive, Now What?

1. Your West Virginia Medical Power of Attorney and West Virginia Living Will are important legal documents. Keep the original signed document in a secure but accessible place. Do not put the original document in a safe deposit box or any other security box that would keep others from having access to it.
2. Give photocopies of the signed originals to your healthcare representative and successor healthcare representative, 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 document placed in your medical records.
3. Be sure to talk to your healthcare representative and successor, doctor(s), clergy, 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 a new document.
5. Remember, you can always revoke one or both of your West Virginia Documents. If you revoke your documents, make sure you notify your representative, successor representatives, your family and your doctors.
6. Be aware that your West Virginia document 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 you speak to your physician for more information. **Caring Connections does not distribute these forms.**