

# **NORTH DAKOTA Advance Directive Planning for Important Health Care Decisions**

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CaringInfo, 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.

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

**Note:** The following is not a substitute for legal advice. While CaringInfo updates the following information and form to keep them up-to-date, changes in the underlying law can affect how the form will operate in the event you lose the ability to make decisions for yourself. If you have any questions about how the form will help ensure your wishes are carried out, or if your wishes do not seem to fit with the form, you may wish to talk to your health care provider or an attorney with experience in drafting advance directives. **If you have other questions regarding these documents, we recommend contacting your state attorney general's office.**

## Using these Materials

### BEFORE YOU BEGIN

1. Check to be sure that you have the materials for each state in which you may receive health care.
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

1. You may want to photocopy or print a second set of these forms before you start so you will have a clean copy if you need to start over.
2. When you begin to fill out the forms, refer to the gray instruction bars — they will guide you through the process.
3. 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.
4. 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, health care providers and/or faith leaders so that the form is available in the event of an emergency.
5. You may also want to save a copy of your form in an online personal health records application, program, or service that allows you to share your medical documents with your physicians, family, and others who you want to take an active role in your advance care planning.

## INTRODUCTION TO YOUR NORTH DAKOTA ADVANCE DIRECTIVE

This packet contains a legal document, the **North Dakota Health Care Directive**, that 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. You must fill out Part I, Part II, or both, for your document to be a valid advance directive. You may also fill out Part III, but it is optional. You must complete Part IV.

**Part I** is the **Power of Attorney for Health Care**, which lets you name someone to make decisions about your medical care—including decisions about life-sustaining treatments—if you can no longer speak for yourself. The Power of Attorney for Health Care 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.

Your Power of Attorney for Health Care goes into effect when your doctor determines that you are no longer able to make or communicate your health care decisions.

**Part II**, the **Health Care Instructions**, is your state's living will. It lets you state your wishes about medical care in the event that you can no longer make your own medical decisions.

Your Health Care Instructions go into effect when your doctor determines that you are no longer able to make or communicate your health care decisions.

**Part III** is an **optional Organ Donation Form**.

**Part IV** contains the signature and witnessing provisions so that your document will be effective.

Your agent must sign **Part V accepting his or her appointment** in Part I in order for his or her power to become effective.

This form does not expressly address mental illness. If you would like to make advance care plans regarding mental illness, you should talk to your physician and an attorney about an advance directive tailored to your needs.

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

## COMPLETING YOUR NORTH DAKOTA HEALTH CARE DIRECTIVE

### How do I make my North Dakota Health Care Directive legal?

In order to make your Health Care Directive legally binding, you must sign your document, or direct someone to sign for you, in the presence of two witnesses or a notary, who must also sign the document.

Neither of these witnesses nor the notary public may be:

- A person you designate as your agent or alternative agent;
- Your spouse;
- A person related to you by blood, marriage or adoption;
- A person entitled to inherit any part of your estate upon your death; or
- A person who has, at the time of executing this document, any claim against your estate.

If your document is witnessed, at least one of your witnesses must not be a health care or long-term care provider providing you with direct care or an employee of a health care or long-term care provider providing you with direct care.

An agent appointed in Part I must also sign a copy of the advance directive at Part V, accepting his or her appointment in order for his or her power to become effective.

### Whom should I appoint as my agent?

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

You can appoint a second person as your alternate agent. The alternate will step in if the first person you name as an agent is unable, unwilling, or unavailable to act for you.

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

- your doctor or other treating health care provider,
- an employee of your treating health care provider who is not related to you,
- an operator of a long-term care facility, or
- an employee of an operator of a long-term care facility who is not related to you.

### **Should I add personal instructions to my North Dakota Health Care Directive?**

One of the strongest reasons for naming an agent is to have someone who can respond flexibly as your health care situation changes and deal with situations that you did not foresee. If you add instructions to this document it may help your agent carry out your wishes, but be careful that you do not unintentionally restrict your agent's power to act in your best interest. In any event, be sure to talk with your agent about your future medical care and describe what you consider to be an acceptable "quality of life."

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

You may revoke your North Dakota Health Care Directive at any time by notifying your agent or doctor, orally or in writing, of your intent to revoke your document, or by executing a new health care directive.

































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

1. Your North Dakota Health Care Directive is an important legal document. 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 original to your agent and alternate agent, 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 agent(s), 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. You may also want to save a copy of your form in an online personal health records application, program, or service that allows you to share your medical documents with your physicians, family, and others who you want to take an active role in your advance care planning.
5. If you want to make changes to your documents after they have been signed and witnessed, you must complete a new document.
6. Remember, you can always revoke your North Dakota document.
7. Be aware that your North Dakota document will not be effective in the event of a medical emergency. Ambulance and hospital emergency department personnel are required to provide cardiopulmonary resuscitation (CPR) unless they are given a separate directive that states otherwise. These directives called "prehospital medical care directives" or "do not resuscitate orders" are designed for people whose poor health gives them little chance of benefiting from CPR. These directives instruct ambulance and hospital emergency personnel not to attempt CPR if your heart or breathing should stop.

Currently not all states have laws authorizing these orders. We suggest you speak to your physician if you are interested in obtaining one. **CaringInfo does not distribute these forms.**

