

NORTH DAKOTA

Advance Directive

Planning for Important Healthcare Decisions

Courtesy of CaringInfo

www.caringinfo.org

800-658-8898

CaringInfo, a program of the National Hospice and Palliative Care Organization (NHPCO), is a national consumer engagement initiative to improve care and the experience of caregiving during serious illness and at the end of life. As part of that effort, CaringInfo provides detailed guidance for completing advance directive forms in all 50 states, the District of Columbia, and Puerto Rico.

This package includes:

- 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.

BEFORE YOU BEGIN

Check to be sure that you have the materials for each state in which you may receive healthcare. Because documents are state-specific, having a state-specific document for each state where you may spend significant time can be beneficial. A new advance directive is not necessary for ordinary travel into other states. The advance directives in this package will be legally binding only if the person completing them is a competent adult who is 18 years of age or older, or an emancipated minor.

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, scan, or take a photo of 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.

5. You may also want to save a copy of your form in your electronic healthcare record, or 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 HEALTH CARE 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.

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.

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.

Part III is an optional Organ Donation Form.

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

Part V is an **Acceptance of Appointment of Power of Attorney** which the person you have appointed as agent in Part I must sign in order for his or her power to become effective.

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.**

How do I make my North Dakota Advance 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 healthcare or long-term care provider providing you with direct care or an employee of a healthcare 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 healthcare 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 healthcare 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 healthcare provider,
- an employee of your treating healthcare 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 advance directive?

Yes! One of the most important reasons to execute an advance directive is to have your voice heard. When you name an agent and clearly communicate to them what you want and don't want, they are in the strongest position to advocate for you. Because the future is unpredictable, be careful that you do not unintentionally restrict your agent's power to act in your best interest. Be especially careful with the words "always" and "never." In any event, be sure to talk with your agent and others about your future healthcare and describe what you consider to be an acceptable "quality of life."

When does my agent's authority become effective?

Part I, **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 healthcare decisions.

Part II, Your **Health Care Instructions** go into effect when your doctor determines that you are no longer able to make or communicate your healthcare decisions.

You retain the primary authority for your healthcare decisions as long as you are able to make your wishes known.

Agent Limitations

Your agent will be bound by the current laws of North Dakota as they regard pregnancy and termination of pregnancies.

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 healthcare directive.

Mental Health Issues

These forms do not *expressly* address mental illness, although you can state your wishes and grant authority to your agent regarding mental health issues. The National Resource Center on Psychiatric Advance Directives maintains a website (<https://nrc-pad.org/>) with links to each state's psychiatric advance directive forms. If you would like to make more detailed advance care plans regarding mental illness, you could talk to your physician and an attorney about a durable power of attorney tailored to your needs.

What other important facts should I know?

Be aware that your advance directive will not be effective in the event of a medical emergency, except to identify your agent. Ambulance and hospital emergency department personnel are required to provide cardiopulmonary resuscitation (CPR) unless you have a separate physician's order, which are typically called "prehospital medical care directives" or "do not resuscitate orders." DNR forms may be obtained from your state health department or department of aging (<https://www.hhs.gov/aging/state-resources/index.html>). Another form of orders regarding CPR and other treatments are state-specific POLST (portable orders for life sustaining treatment) (<https://polst.org/form-patients/>). Both a POLST and a DNR form **MUST** be signed by a healthcare provider and **MUST** be presented to the emergency responders when they arrive. These directives instruct ambulance and hospital emergency personnel not to attempt CPR (or to stop it if it has begun) if your heart or breathing should stop.

INTRODUCTION

INTRODUCTION

PRINT YOUR NAME

I, _____,
(name)

PRINT YOUR
ADDRESS

(address)

understand this document allows me to do ONE OR BOTH of the following:

PART I: Name another person (called a health care agent) to make health care decisions for me if I am unable to make and communicate health care decisions for myself. My health care agent must make health care decisions for me based on the instructions I provide in this document (Part II), if any, the wishes I have made known to him or her, or my agent must act in my best interest if I have not made my health care wishes known.

AND/OR

PART II: Give health care instructions to guide others making health care decisions for me. If I have named a health care agent, these instructions are to be used by the agent. These instructions may also be used by my health care providers, others assisting with my health care and my family, in the event I cannot make and communicate decisions for myself.

In addition, I may also do the following, but I understand it is optional:

PART III: Allows me to make an organ and tissue donation upon my death by signing a document of anatomical gift.

PART I

PART I: APPOINTMENT OF HEALTH CARE AGENT

THIS IS WHO I WANT TO MAKE HEALTH CARE DECISIONS FOR ME IF I AM UNABLE TO MAKE AND COMMUNICATE HEALTH CARE DECISIONS FOR MYSELF (I know I can change my agent or alternate agent at any time and I know I do not have to appoint an agent or an alternate agent).

NOTE: If you appoint an agent, you should discuss this health care directive with your agent and give your agent a copy. If you do not wish to appoint an agent, you may leave Part I blank. None of the following may be designated as your agent: your treating health care provider, a non-relative employee of your treating health care provider, an operator of a long-term care facility, or a non-relative employee of a long-term care facility.

When I am unable to make and communicate health care decisions for myself, I

trust and appoint _____ to make health care decisions for me. This person is called my health care agent.

Relationship of my health care agent to me: _____

Telephone number of my health care agent: _____

Address of my health care agent: _____

(OPTIONAL) APPOINTMENT OF ALTERNATE HEALTH CARE AGENT: If the person I have named above is not reasonably available or is unable or unwilling to serve as my health care agent, I trust and appoint

_____ to be my health care agent instead.

Relationship of my alternate health care agent to me: _____

Telephone number of my alternate health care agent: _____

Address of my alternate health care agent: _____

ADD NAME OF HEALTH CARE AGENT, RELATIONSHIP, TELEPHONE NUMBER AND ADDRESS

ADD ALTERNATE AGENT'S NAME RELATIONSHIP, TELEPHONE NUMBER AND ADDRESS

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INSTRUCTIONS FOR
HEALTH CARE
AGENT

THIS IS WHAT I WANT MY HEALTH CARE AGENT TO BE ABLE TO DO IF I AM UNABLE TO MAKE AND COMMUNICATE HEALTH CARE DECISIONS FOR MYSELF (I know I can change these choices).

My health care agent is automatically given the powers listed below in (A) through (D). My health care agent must follow my health care instructions in this document or any other instructions I have given to my agent. If I have not given health care instructions, then my agent must act in my best interest.

Whenever I am unable to make and communicate health care decisions for myself, my health care agent has the power to:

(A) Make any health care decision for me. This includes the power to give, refuse, or withdraw consent to any care, treatment, service, or procedures. This includes deciding whether to stop or not start health care that is keeping me or might keep me alive and deciding about mental health treatment.

(B) Choose my health care providers.

(C) Choose where I live and receive care and support when those choices relate to my health care needs.

(D) Review my medical records and have the same rights that I would have to give my medical records to other people.

If I DO NOT want my health care agent to have a power listed above in (A) through (D) OR if I want to LIMIT any power in (A) through (D), I MUST say that here:

ADD INSTRUCTIONS
HERE ONLY IF YOU
WANT TO LIMIT
YOUR AGENT'S
POWERS

ATTACH
ADDITIONAL
PAGES, IF NEEDED

INITIAL (1) IF YOU
WANT YOUR AGENT
TO BE ABLE TO
MAKE DECISIONS
REGARDING ORGAN
DONATION

INITIAL (2) IF YOU
WANT YOUR AGENT
TO BE ABLE TO
MAKE DECISIONS
REGARDING THE
FINAL DISPOSITION
OF YOUR REMAINS

ADD OTHER
INSTRUCTIONS, IF
ANY, REGARDING
YOUR ADVANCE
CARE PLANS

THESE INSTRUCTIONS CAN FURTHER ADDRESS YOUR HEALTH CARE PLANS, SUCH AS YOUR WISHES REGARDING HOSPICE TREATMENT, BUT CAN ALSO ADDRESS OTHER ADVANCE PLANNING ISSUES, SUCH AS YOUR BURIAL WISHES

ATTACH
ADDITIONAL PAGES
IF NEEDED

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_____ (1) To decide whether to donate any parts of my body when I die, including organs, tissues, and eyes.

____(2) To decide what will happen with my body when I die (burial, cremation, etc.).

If I want to say anything more about my health care agent's powers or limits on those powers, I can say it here:

This image shows a full page of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page, providing a template for handwriting practice or general writing. There are no margins, text, or other markings on the page.

PART II

PART II: HEALTH CARE INSTRUCTIONS

NOTE: Complete this Part II if you wish to give health care instructions. If you appointed an agent in Part I, completing this Part II is optional but would be very helpful to your agent. However, if you chose not to appoint an agent in part I, you **MUST** complete, at a minimum, Part II (B) if you wish to make a valid health care directive.

These are instructions for my health care when I am unable to make and communicate health care decisions for myself. These instructions must be followed (so long as they address my needs).

(A) THESE ARE MY BELIEFS AND VALUES ABOUT MY HEALTH CARE
(I know I can change these choices or leave any of them blank).

I want you to know these things about me to help you make decisions about my health care:

My goals for my health care:

My fears about my health care:

DESCRIBE YOUR
BELIEFS AND
VALUES ABOUT
HEALTH CARE TO
GUIDE HEALTH
CARE DECISIONS
ON YOUR BEHALF

ATTACH
ADDITIONAL PAGES
IF NEEDED

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My spiritual or religious beliefs and traditions:

My beliefs about when life would no longer be worth living:

My thoughts about how my medical condition might affect my family:

DESCRIBE YOUR
BELIEFS AND
VALUES ABOUT
HEALTH CARE TO
GUIDE HEALTH
CARE DECISIONS
ON YOUR BEHALF

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(B) THIS IS WHAT I WANT AND DO NOT WANT FOR MY HEALTH CARE
(I know I can change these choices or leave any of them blank.)

Many medical treatments may be used to try to improve my medical condition or to prolong my life. Examples include artificial breathing by a machine connected to a tube in the lungs, artificial feeding or fluids through tubes, attempts to start a stopped heart, surgeries, dialysis, antibiotics, and blood transfusions. Most medical treatments can be tried for a while and then stopped if they do not help.

I have these views about my health care in these situations:

(NOTE: you can discuss general feelings, specific treatments, or leave any of them blank.)

If I had a reasonable chance of recovery and were temporarily unable to make and communicate health care decisions for myself, I would want:

If I were dying and unable to make and communicate health care decisions for myself, I would want:

If I were permanently unconscious and unable to make and communicate health care decisions for myself, I would want:

If I were completely dependent on others for my care and unable to make and communicate health care decisions for myself, I would want:

DESCRIBE YOUR
CHOICES
REGARDING
HEALTH CARE
UNDER THE
CIRCUMSTANCES
DESCRIBED

ATTACH
ADDITIONAL PAGES
IF NEEDED

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DESCRIBE YOUR
CHOICES
REGARDING PAIN
MANAGEMENT

In all circumstances, my doctors will try to keep me comfortable and reduce my pain. This is how I feel about pain relief if it would affect my alertness or if it could shorten my life:

There are other things that I would want or do not want for my health care, if possible:

Who I would like to be my doctor: _____

Where I would like to receive health care: _____

Where I would like to die and other wishes I have about dying:

DESCRIBE YOUR
CHOICES
REGARDING
HEALTH CARE
UNDER THE
CIRCUMSTANCES
DESCRIBED

ATTACH
ADDITIONAL PAGES
IF NEEDED

My wishes about what happens to my body when I die (cremation, burial, etc.):

[illegible]

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Palliative Care
Organization
2023 Revised.

PART III

PART III: MAKING AN ANATOMICAL GIFT (Optional)

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, guardian, or your family may have the authority to make a gift of all or part of your body under North Dakota law.

☐ I do not want to be an organ donor at the time of my death, and do not want my family, guardian, or agent to donate my organs on my behalf.

☐ I would like to be an organ donor at the time of my death. I have told my family my decision and ask my family to honor my wishes. I wish to donate the following (initial one statement):

☐ Any needed organs and tissue.

☐ Only the following organs and tissue:

PRIOR HEALTH CARE DIRECTIVES

By executing this document, I hereby revoke any prior health care directive.

INITIAL ONLY ONE

INITIAL ONLY ONE

PRIOR DIRECTIVE
REVOCATION
NOTICE

PART IV

PART IV: EXECUTION

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 the 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 the health care or long-term care provider providing you with direct care.

You and any agent appointed in Part I must also sign a copy of the advance directive in Part V to accept his or her role in order for his or her power to become effective.

If you decide to have your advance directive witnessed, use alternative No. 1, below.

If you decide to have your advance directive notarized, use alternative No. 2, below.

(This health care directive will not be valid unless it is notarized or signed by two qualified witnesses who are present when you sign or acknowledge your signature. If you have attached any additional pages to this form, you must date and sign each of the additional pages at the same time you date and sign this health care directive.)

IF YOU DECIDE TO
HAVE YOUR
ADVANCE
DIRECTIVE
WITNESSED, USE
ALTERNATIVE NO.
1, BELOW (P. 12)

IF YOU DECIDE TO
HAVE YOUR
ADVANCE
DIRECTIVE
NOTARIZED, USE
ALTERNATIVE NO.
2, BELOW (P. 13)

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Alternative No. 1. Sign before witnesses

I sign my name to this Health Care Directive

on _____ at _____, _____
(date) (city) (state)

(signature of principal)

Witness One:

(1) In my presence on _____,
(date) _____ acknowledged the
(name of declarant)
declarant's signature on this document or acknowledged that the declarant
directed the person signing this document to sign on the declarant's behalf.
(2) I am at least eighteen years of age.
I certify that the information in (1) and (2) is true and correct.

(signature of witness one) (date)

(address of witness one)

Witness Two:

(1) In my presence on _____,
(date) _____ acknowledged the
(name of declarant)
acknowledged the declarant's signature on this document or acknowledged that
the declarant directed the person signing this document to sign on the declarant's
behalf.
(2) I am at least eighteen years of age.
(3) I am NOT a health care provider or an employee of a health care provider
giving direct care to the declarant.
I certify that the information in (1) through (3) is true and correct.

(signature of witness two) (date)

(address of witness two)

DATE AND SIGN
YOUR DOCUMENT
HERE

YOUR WITNESSES
MUST DATE AND
PRINT YOUR NAME
AND THEN SIGN
AND DATE THE
DOCUMENT AND
PRINT THEIR
ADDRESSES

AT LEAST ONE
WITNESS MUST
NOT BE YOUR
HEALTH CARE
PROVIDER OR
EMPLOYEE OF YOUR
HEALTH CARE
PROVIDER

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Alternative No. 2. Sign before Notary Public

I sign my name to this Health Care Directive

on _____ at _____, _____.
(date) (city) (state)

(signature of principal)

Notary Public

In my presence on _____, _____
(date) (name of declarant)

acknowledged the declarant's signature on this document or acknowledged that the declarant directed the person signing this document to sign on the declarant's behalf.

(signature of the notary public)

My commission expires _____, 20____.

DATE AND SIGN
YOUR DOCUMENT
HERE

A NOTARY PUBLIC
MUST FILL OUT
THIS SECTION

PART V

PART V. ACCEPTANCE OF APPOINTMENT OF POWER OF ATTORNEY

I accept this appointment and agree to serve as agent for health care decisions. I understand I have a duty to act consistently with the desires of the principal as expressed in this appointment. I understand that this document gives me authority over health care decisions for the principal only if the principal becomes incapacitated. I understand that I must act in good faith in exercising my authority under this power of attorney. I understand that the principal may revoke this power of attorney at any time in any manner.

If I choose to withdraw during the time the principal is competent I must notify the principal of my decision. If I choose to withdraw when the principal is not able to make health care decisions, I must notify the principal's physician.

YOUR AGENT AND
ALTERNATE
AGENT(S) MUST
SIGN AND DATE
THE DOCUMENT IN
ORDER FOR THEIR
POWER TO BE
EFFECTIVE

(signature of agent)

(date)

(signature of first alternate agent)

(date)

(signature of second alternate agent)

(date)

PRINCIPAL'S STATEMENT

I have read the materials explaining of the nature and effect of an appointment of a health care agent that are included in instructions to this health care directive.

Dated this _____ day of _____, 20____

YOU MUST SIGN
AND DATE THIS
DOCUMENT HERE

Signature of Principal