

# ADVANCE DIRECTIVES

*Your Right to Direct Your  
Health Care*



Our core values of Respect, Care, Competence and Joy are lived by all who work here and felt by all who use our services. At our HSHS Hospitals, we want you to know you have the right to make decisions about your healthcare. This includes the right to accept or refuse medical or surgical treatment and the right to direct future healthcare decisions if you become unable to do so yourself. You can do this by completing an Advance Directive.



## We honor Advance Directives

An Advance Directive is a document that describes, in writing, treatments you want or don't want. It tells others what to do with your care if you get injured and can't express your wishes. It also allows you to name a person of your choice to make decisions on your behalf. An Advance Directive will empower your selected representative (health care agent) should you become physical or mentally unable to direct your own care.

If you have questions or would like to learn more about advance directives, please call HSHS St. Vincent Hospital or HSHS St. Mary's Hospital Medical Center at (920) 433-8162, HSHS St. Nicholas Hospital at (920) 451-7265 or HSHS St. Clare Memorial Hospital at (920) 848-8505.

## Frequently Asked Questions

### **Why should I make an Advance Directive (AD)?**

It speaks for you when you cannot. It tells what treatments you do or do not want and who will make the health care decisions for you when you cannot.

### **What is a Power of Attorney for Health Care (POAHC)?**

It is an AD signed by you when you are a competent adult naming someone you trust to make your health care decisions if you become incapacitated.

### **What does "incapacity" mean?**

It is the inability to understand information or communicate health care decisions.

### **When does a POAHC go into effect and how long is it effective?**

After signed and witnessed, it is a valid document that remains in effect until it is revoked or until the expiration date (if there is one). If you have capacity, you continue to make your own health care decisions. It is activated if two clinicians (as designated by the document) who have personally examined you sign a statement that you lack the capacity to make health care decisions. If it is activated, your health care agent would make health care decisions for you. If you regain capacity, then one physician can deactivate your POAHC and then you once again make your own medical decisions communicate health care decisions.

## Can I have more than one health care agent?

Yes. You may name alternates who can make your health care decisions if your primary agent is unable or unwilling to act.

## Who can be my health care agent?

Anyone who is at least 18-years old and of sound mind, but not: your health care provider, an employee of your health care provider, an employee of a health care facility in which you are a resident or patient, or a spouse / domestic partner of any of the above unless that person is also your relative.

## Does my POAHC need to be witnessed?

Yes. It must be signed you in the presence of two witnesses at least 18-years old. At the time the document is signed, no witnesses may be:

- Related to the person by blood, marriage or adoption.
- The spouse/domestic partner of the person.
- The spouse/domestic partner of one financially responsible for the person's health care.
- An heir entitled to or has a claim on your estate.
- A health care provider serving you.
- An employee of the health care provider.
- An employee of a health care facility in which you reside or are a patient, except for chaplains and social workers.
- Your health care agent or alternate.



## **What responsibilities does the health care provider have when presented with a POAHC document?**

Upon receiving a valid document, a health care facility or physician reviews the document to make sure it is valid. The document is then scanned into your electronic medical record. If you have been certified as incapacitated, that activation form is also placed in your medical record so that we can respect your stated desires consistent with applicable law.

## **What are the duties and immunities for the health care provider under POAHC?**

No health care facility or provider may be criminally or civilly liable or charged with unprofessional conduct for:

- Certifying incapacity if certification is made in good faith after a thorough examination of the person.
- Failing to comply with the POAHC or the decision of a health care agent (failure of a physician to comply with the POAHC or a decision of the health care agent constitutes unprofessional conduct only if the physician refuses or fails to make a good faith attempt to transfer the person to another physician who will comply).
- Complying with the terms of a valid POAHC if they don't know it was revoked.
- Acting contrary to or failing to act on a revocation of a POAHC, unless the health care facility or health care provider knows of the revocation.
- Failing to obtain the health care agent's decision (this immunity applies if the health care facility or provider has made a reasonable attempt to contact the health care agent to obtain a decision but has been unable to do so).
- Making a decision in good faith pursuant to the POAHC.

## **Who is liable for the cost of medical care decisions made by the health care agent?**

No health care agent, unless the agent is the spouse or domestic partner of the principal, may be held personally liable for goods or services purchased or contracted for under a POAHC. The medical cost liability would be the same as if the care was provided as a result of the person's decision.

## **To what extent are health care agents liable for decisions they make?**

A health care agent, acting in good faith, does not incur criminal or civil liability for health care decisions made under a valid POAHC.

## **What is the difference between a Power of Attorney and Power of Attorney for Health Care?**

The Power of Attorney for Finance grants financial authority but does not include the legal authority to make medical decisions. The Power of Attorney for Health Care grants only medical decision-making authority.

## **How is the POAHC canceled?**

If you sign a new POAHC, the prior one is revoked. Notify your health care agent(s) and health care provider(s) orally or in writing that you revoked your POAHC. If the agent is the person's spouse or domestic partner, the POAHC is automatically revoked upon divorce, annulment of the marriage, or notice of termination of domestic partnership.

## **What is a Declaration of Physicians (Living Will)?**

A Declaration to Physicians tells your doctor of your desires regarding life-sustaining procedures or a feeding tube if you were to develop an illness or injury that cannot be cured or were in a persistent vegetative state. A Declaration to Physicians may authorize the withholding or withdrawal of life-sustaining procedures or feeding tube when two physicians, one of whom is the attending physician, have personally examined and certified in writing that one has a terminal condition and is unable to understand or express health care choices, or is in a persistent vegetative state.

## **What is the difference between a Declaration to Physicians and a POAHC?**

A Declaration to Physicians goes into effect if two physicians certify that you are terminally ill or in a persistent vegetative state and have lost the ability to make medical decisions. It only deals with the use or non-use of life-sustaining procedures or feeding tubes. A POAHC is said to be activated if two physicians, or a physician and a psychologist, have personally examined you and certify that you are incapacitated and cannot make health care decisions. However, you do not have to be close to death or in a persistent vegetative state. The POAHC allows another to speak for you and to make health care decisions for you that are not limited to artificial life-sustaining procedures or feeding tubes. Your agent may also make decisions for you regarding nursing home or community-based residential facility placement and organ donation, among other things. The type of decisions your agent can make depends upon the authority you give when you complete the document.

## **Should I have a Declaration to Physicians and a POAHC?**

It is not necessary to have both a Declaration to Physicians and a POAHC. If you have both documents, make sure they do not conflict. If they do conflict, a health care provider will follow the instructions on the POAHC rather than the instructions of the Declaration to Physicians (if the POAHC is dated after December 11, 1991).

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

You may revoke or redo a Declaration to Physician or POAHC at anytime.

## **Does my health care provider need to follow my AD?**

Some health care providers and physicians may have policies or beliefs, which prohibit them from honoring certain ADs. Discuss your AD with your providers to make them aware of your wishes and to determine if they will honor it. If they will not, you may choose another provider.

## **What happens if I do not have an AD?**

You still receive medical care even if you do not have an AD. You may not receive the type of care and treatments you want if you could still make decisions for yourself. If you cannot speak for yourself and do not have an AD, a physician or health care institution may ask the courts to appoint a legal guardian who would then make decisions for you.



## Where should I keep my AD?

Keep your AD in a place where you and others can easily find it, but not in a safe deposit box. Make sure your family members or domestic partner, physician, health care provider, hospital and lawyer are aware that you have an AD and give each of them a copy of your document. It is ideal to have the document in your medical record.

## What if my AD is from another state?

Documents signed in another state on or after May 5, 2004, are valid and enforceable in Wisconsin if they are valid and in accordance with the laws of that state in which they were created at the time they were created. The document must authorize your agent to make the same decisions for you that a health care agent in a valid Wisconsin document could make for you.

## Where can I go for help on ADs?

Your physician or other health care provider, your attorney, the Pastoral Care Department at **HSHS St. Vincent Hospital (920) 433-8162**, **HSHS St. Mary's Hospital Medical Center (920) 433-8162**, **HSHS St. Nicholas Hospital (920) 451-7265** or **HSHS St. Clare Memorial Hospital (920) 848-8505** or the **Wisconsin Department of Health and Family Services at (608) 266-5863**. This information is adapted from the Wisconsin Department of Health and Family Services.



**HSHS St. Vincent  
Hospital**

835 S. Van Buren St., Green Bay, WI  
[www.stvincenthospital.org](http://www.stvincenthospital.org)

**HSHS St. Mary's  
Hospital Medical Center**

1726 Shawano Ave., Green Bay, WI  
[www.stmarysgb.org](http://www.stmarysgb.org)

**HSHS St. Nicholas  
Hospital**

3100 Superior Ave., Sheboygan, WI  
[www.stnicholashospital.org](http://www.stnicholashospital.org)

**HSHS St. Clare  
Memorial Hospital**

855 S. Main St., Oconto Falls, WI  
[www.stclarememorial.org](http://www.stclarememorial.org)



