

A Gift to Your Family:

Planning Ahead for Future Health Needs

Sixth edition

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INTRODUCTION

Who will make your medical decisions when you can't?

As a competent adult, you have the right to control decisions about your future medical care, including the right to accept or refuse treatment, and the right to be an organ and tissue donor.

Making decisions about future medical care and sharing your wishes with your loved ones is truly *A Gift to Your Family*. Talking about your preferences for treatment will save your family the heartache of having to make decisions for you without knowing your wishes. It will make a difficult time more manageable. Your family will feel reassured that they are respecting your wishes.

A Gift to Your Family helps you get started. This guide helps answer your questions about advance care planning and encourages you to discuss the issues with your family.

The time to plan ahead is now.

Important note: *This consumer guide was prepared on the basis of Wisconsin law as it existed in March 2005. It is issued to inform, not to advise.*

It is not intended to be a substitute for legal, medical or other professional advice. Consult a trained expert for interpretation and application of current law.

Additional copies of *A Gift to Your Family* consumer guide, including the Power of Attorney for Health Care and Declaration to Physicians can be purchased online through WisBar.org. Copies are available for free download from Briggslawoffice.com.

ADVANCE DIRECTIVES

What are advance directives?

An advance directive is a written instruction that you make while you are mentally competent that states how you want your health care decisions to be made if you become incapacitated or cannot express your wishes.

Advance directives guide your physician and other health care professionals, and relieve your family and friends from the burden of guessing what types of care and treatment you would want to receive.

"After my mother suffered from a second stroke, her body was shutting down. The medical team was keeping her alive with feeding tubes in an unconscious state. Her Power of Attorney for Health Care indicated that she did not want feeding tubes, but I knew she would die without them. After much reflection, I honored her wishes, and she died. It would have been much harder to do so if we hadn't ever talked. But I knew I was doing what she would have wanted if she could have communicated for herself."

Wisconsin statutes recognize two forms of advance directives - the Power of Attorney for Health Care and the Declaration to Physicians (Living Will).

Power of Attorney for Health Care

This appoints an agent to make all health care decisions for you, in collaboration with your personal physician, if you lose the ability to make health care decisions for yourself. You also may complete a Power of Attorney for Health Care addendum, which includes a description of your treatment preferences and desires, in order to guide the agent. Your agent can tell the physician or hospital exactly what care you would want in all types of health decisions, not just those concerning life-sustaining treatment. In most cases, a court supervised guardianship and a protective placement proceeding can be avoided if a Power of Attorney for Health Care has been accurately completed.

Declaration to Physicians (Living Will)

This describes the kind of life-sustaining care you would want only if you had a terminal condition or were in a persistent vegetative state. The declaration directs your physician whether to withhold or withdraw life-sustaining treatment or a feeding tube if you develop an illness or injury that cannot be cured and your death is imminent. A Declaration to Physicians does not give authority to anyone to make health care decisions on your behalf. Therefore, if you must later go to a nursing home, a court supervised guardianship and protective placement proceeding will be required. This can be a costly process.

How do I get started?

Terminal Condition:

This is an incurable condition, caused by injury or illness, that will cause death in the near future, so that life-sustaining procedures only prolong the dying process.

Persistent Vegetative State:

This is an incurable condition in which one loses the ability to think, speak and move purposefully but the heartbeat and breathing continue. Periods of sleep and wakefulness occur.

For both the Declaration to Physicians and the Power of Attorney for Health Care, you may use the standard forms created by law. The forms and instructions are available in this guide, and at courthouses, hospitals, nursing homes, and through the Wisconsin Department of Health and Family Services. You must read the instructions carefully before completing either document. Completing the document incorrectly may invalidate it at the time when it is most needed. You may choose to have an attorney complete the standard forms or write an individualized

document for you. Begin the process by thinking through your options and talking with your family. If you have specific legal or medical questions, consult your attorney, physician or other health care professional.

CPR and Do Not Resuscitate (DNR) Orders

When a person stops breathing and his or her heart stops beating, the term used is cardiopulmonary arrest. Cardiopulmonary resuscitation (CPR) is an emergency medical procedure used to try to restart the heartbeat and breathing.

CPR involves blowing into the mouth and pushing on the chest. Anyone trained in CPR can start this procedure. If done properly, CPR may lead to an adequate blood pressure that helps the vital organs (brain, heart, kidneys, and liver) survive. If this procedure does not revive the victim, the emergency team from the ambulance or the hospital will start Advanced Life Support (ALS). ALS includes placing a tube in the windpipe, using electrical shock applied to the chest and medications injected into the veins. The victim must then be transported to the hospital as soon as possible and may need a machine (ventilator) to breathe for him or her for an uncertain amount of time.

CPR is most effective when started immediately after a person passes out. If more than six minutes has passed before CPR is started, there is a strong possibility that serious vital organ damage has already occurred. Cold water drowning is the exception and can increase this time to as long as 40 minutes.

CPR is not always effective even when done properly. A victim who is elderly or has a serious medical condition such as emphysema, severe liver or kidney failure, or widespread cancer, has a low rate of survival.

CPR is not for everybody. Therefore, it is important for you to discuss this with your physician. If you sign a Power of Attorney for Health Care, you may add a statement indicating whether you would want CPR and under what circumstances.

A person may refuse CPR in the institutional setting such as hospitals and nursing homes by having his or her physician write such an order. This order must be written, even if an advance directive has been completed, in order to notify all care providers. If this person has a cardiopulmonary arrest outside the hospital or nursing home, the emergency team will try to revive him or her unless he or she is wearing a DNR

bracelet.

DNR orders for non-hospitalized patients: Wisconsin Act 200

In 1996, the State Legislature passed Wisconsin Act 200, which allows certain individuals to request a DNR bracelet. In 1999, the law was amended to allow the use of MedicAlert bracelets. In order to obtain a bracelet, a physician must sign the DNR order. A patient can receive a DNR order form from the Wisconsin Department of Health and Family Services (608-266-1568) or from a physician's office.

Who is eligible for a DNR bracelet?

The person must be at least age 18, not be pregnant, and have any of the following:

- ★ a terminal medical condition;
- ★ a medical condition that makes it unlikely that CPR will be successful (for example, severe disease of the heart, lungs, kidneys, brain); or
- ★ a medical condition that would make CPR cause more harm than benefit (for example, severe bone softening due to osteoporosis).

If the person qualifies, he or she may ask the attending physician for the bracelet. The person and the physician both must sign the order. The physician or the physician's representative then will place the bracelet on the person's wrist.

***WARNING:** Only bracelets issued by a physician's order are legal in Wisconsin. Bracelets sold by a drug or discount store are not authorized by state law.

How do I revoke my DNR order?

The DNR order can be revoked easily by any of the following:

- ★ communicate your desire to revoke the DNR order to your family, agent or physician and promptly remove the bracelet;
- ★ deface, cut, burn or otherwise destroy the bracelet; or
- ★ remove the bracelet or ask another person to do so.

What may emergency responders do?

If you have a DNR order and bracelet, and emergency responders are called, they may (as appropriate):

- ★ clear airways;
- ★ administer oxygen;
- ★ position for comfort;
- ★ splint injured bones;
- ★ control bleeding;
- ★ provide pain medication;
- ★ provide emotional support;
- ★ contact a hospice or home health agency if either has been involved in the patient's care.

If you have a DNR order and bracelet, and emergency responders are called, they may NOT:

- ★ perform chest compressions;
- ★ insert airways;
- ★ administer cardiac resuscitation drugs;
- ★ breathe for you;
- ★ use electric shock to start your heart.

For more information, including a DNR Order Form, contact your physician or call the Wisconsin Department of Health and Family Services at (608) 266-1568.

COMMONLY ASKED QUESTIONS

Why should I have an advance directive?

Incapacitated :

This is defined by Wisconsin statutes as the inability to receive and evaluate information effectively or to communicate decisions to such an extent that the individual lacks the capacity to manage his or her health care decisions (155 Wis. Stats.).

An advance directive allows you to make your wishes clear to your family, friends, and health care professionals while you are still able to do so. It helps prevent disagreements among your family members about what treatment you should receive if you are incapacitated. The law does not allow a family member or others to make these decisions for you unless you are incapacitated and a specific family member is designated as your health care agent or is appointed by the court as your guardian.

What if I don't have an advance directive?

If you do not have an advance directive, and you are incapacitated, no one has legal authority to make your decisions. Your decisions might be left to your physician and a spouse, adult child, adult sibling, close friend or court-appointed guardian who has limited legal authority and may not know or carry out your wishes. If you have not designated a health care agent, loved ones may need to spend time and money seeking guardianship in court in order to make decisions on your behalf.

When should I prepare an advance directive?

Now. While most people first think about preparing an advance directive when they are admitted to a hospital or nursing home, it is a good idea to think about doing so now - while your health permits you to do so.

Which document is right for me?

The Power of Attorney for Health Care may avoid costly guardianship proceedings in court; a Declaration to Physicians will not. The Power of Attorney for Health Care is a more powerful and flexible document. A Power of Attorney for Health Care can include

an addendum to specify treatment preferences. However, if you do not have someone to chose as your health care agent or your agent becomes incapacitated or dies, the Declaration to Physicians is your only option. If you have both a Declaration to Physicians and a Power of Attorney for Health Care, be sure they are consistent. If there is any conflict between the two, the Power of Attorney for Health Care will overrule the Declaration to Physicians.

What rights do I have about the medical care I receive?

As a competent adult, you have the right to make your own decisions about medical care, including accepting or refusing treatment.

Am I required to create an advance directive?

No. Federal law requires hospitals and other health care facilities to inform patients about advance directives when they are admitted, but health care providers cannot require you to have one.

What if I change my mind about my wishes?

Your Declaration to Physicians and your Power of Attorney for Health Care will last from the time they are created until your death, unless they are revoked or changed. They can be revoked or changed at any time if you do any of the following:

- ★ tear, burn, obliterate or destroy the document or direct someone else to do so in your presence;
- ★ write and sign a cancellation;
- ★ verbally express your intent to cancel the document in the presence of two witnesses and notify your doctor of the revocation; or
- ★ write a new document.

Where should I keep my advance directive?

Keep one copy of your directive with your other important documents. Let your loved one, your health care agent and alternate agent know that you have an advance directive,

and give them a copy. You also may use a wallet card that indicates that you have an advance directive and where it can be found. Be sure that one copy of your advance directive is included in your physician's medical record and at the hospital that would treat you. You may choose to carry your advance directive with you when you travel and keep it in your glove compartment of your car.

Where is my directive valid?

Your directive is valid in Wisconsin. If you spend considerable time in another state, you also should have one prepared in that state.

HEALTH CARE AGENT

This is someone you have chosen in your Power of Attorney for Health Care to make health care decisions for you if you are unable to express your own wishes for care or treatment. Your agent should have full knowledge of your wishes regarding future care and treatment.

Roles and Responsibilities

Who can I appoint in my Power of Attorney for Health Care as my agent?

Your agent is usually a spouse, trusted relative or friend. The agent must be at least age 18. You may choose any adult except for your health care provider (for example, physician, nurse), an employee of a health care facility in which you are a patient or reside, or a spouse of any of these providers or employees unless they are your relative. You should be sure that the person you appoint is someone you trust and that you discuss with that person your treatment preferences, because that person will have authority to make important decisions on your behalf.

When does my agent assume responsibility?

Your agent will not make decisions on your behalf until or unless you lose the ability to do so. Two physicians or one physician and a psychologist must declare that you no

longer have capacity. As soon as you have selected your agent, he or she needs to start learning about your values and wishes.

What does my agent need to know?

Your best protection in having your wishes honored is to communicate them effectively to your agent. For example, tell your agent how you feel about life support, being in a coma, and about the quality of life you hope to maintain. To facilitate the discussion, read through the Health Care Agent discussion points listed in this guide. Also, use the addendum to the Power of Attorney for Health Care to provide your agent with additional information.

What are my agent's responsibilities?

Your agent's main responsibility is to understand your beliefs and concerns about medical treatment. He or she also must be willing to make decisions that are consistent with your wishes, and communicate those wishes to the health care team. Your agent will need to talk regularly with your physicians and stay informed of your condition, treatment plan, and chances for recovery. Your agent must be certain that treatment matches your wishes. If the treatment does not, your agent must tell your physician or change physicians for you.

If I need nursing home or community-based residential facility care can my agent admit me?

Your health care agent can admit you to a nursing home or community-based residential facility (CBRF) for up to three months for respite or recuperative care, even if you have not checked "yes" on your Power of Attorney for Health Care. Your agent can do this without the need for guardianship or protective placement proceedings in court. In order for your agent to place you in a nursing home or CBRF for longer than three months, without court proceedings, you must check "yes" on your Power of Attorney for Health Care.

Does the person I appoint as my financial durable power of attorney automatically make my health care decisions?

No. The person you appoint as your agent in a durable power of attorney (generally relating to financial matters) is not granted the right to make health care decisions for you unless the document contains the essential language of the Power of Attorney for Health Care statute. It is common for people to appoint one agent for health care decisions and another agent to handle financial matters.

Discussion Points: Issues for you to consider with your Health Care Agent

- ★ Describe your current health status and your quality of life to your health care agent.
- ★ Determine how important independence or self-sufficiency is to you. Discuss your general attitudes about illness, dying, and death.
- ★ Would your attitude about illness, dying, and death be affected if your physical or mental abilities were decreased?
- ★ Consider your feelings about using the following treatments, how long you might want them tried and under what conditions (for example, mental status, odds of successful outcome):
 - ★ Ventilator (respirator);
 - ★ Artificial nutrition (through a tube in the nose or the abdomen);
 - ★ Kidney dialysis;
 - ★ Drugs to maintain heart rate and blood pressure;
 - ★ Attempting resuscitation (for example, chest compressions, artificial respiration, defibrillation).
- ★ Think about the use of life-sustaining measures in the face of terminal illness, of permanent coma, or irreversible chronic illness (for example, Alzheimer's disease).
- ★ Determine what role your personal faith plays in your life and how these beliefs affect your attitude toward a serious or terminal illness and death.
- ★ Discuss how your faith community views the role of prayer or religious sacraments in an illness.
- ★ Think about what may be important to you as you are dying (for example, pain control, having family members present).
- ★ Decide where you would prefer to die.
- ★ Decide if you want to donate any parts of your body after you die (refer to Organ and Tissue Donation section).
- ★ Tell your agent if you have discussed your wishes about end-of-life care with your physician.
- ★ Do you trust this person to carry out your wishes?
- ★ Tell your agent if you have talked to your family about your wishes and if they are supportive.
- ★ Tell your agent whom else you want involved in making decisions about your medical care.

ORGAN AND TISSUE DONATION

Advances in medical technology over the last 30 years have allowed physicians to save lives, restore health and improve the quality of life through organ and tissue donation. However, tens of thousands of individuals nationwide are on waiting lists for transplants. Every year, thousands of people die waiting for a donor to give them the gift of life.

If tragedy strikes, health care professionals will always try to save your life. Should all efforts completely fail, your organs and tissues may be eligible for donation. With no cost

"When the doctors told us Steve had suffered brain death, we asked if we could make an organ donation. We believed then and we believe now that we made the best decision. Steve was a very loving and generous person and the donation was something we knew he wanted."

to you or your loved ones, you can give the gift of enhanced life or life itself. That is because your heart, kidneys, liver, lungs, corneas, and even your skin and bones can all be transplanted. In addition, donation is done within hours of death, so your family may proceed with funeral arrangements without delay or interruption.

Talk to your family about your decision to become a donor. It is important that those close to you know that you want to be a donor so that they will support your decision when the time comes for donation. It also is important that you talk to your physician about becoming a donor so that he or she can record your wishes in your medical record.

Commonly Asked Questions

Why should I become an organ or tissue donor?

Over 1,500 people are on the donor waiting list in Wisconsin and many will die unless more donors participate. As just one person, you can give up to 50 people the gift of life or enhanced life if you become a donor.

How do I become an organ donor?

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Sign the back of your driver's license or ID card, directly on top of the plastic. In addition, make sure that your Power of Attorney for Health Care indicates that you want to become a donor. The section is entitled "anatomical gifts." You also may fill out the donor card (on the back cover of this guide) to keep in your wallet. You can decide to donate any needed organ and tissue, or you can designate which organs and tissues you want to donate.

Most importantly, make sure that you share your decision to be a donor with your family and loved ones. Very often, a driver's license, donor card or Power of Attorney for Health Care is not available at the time of death. When you make your wishes known, you relieve your family of the burden of needing to make the decision for you. A signed donor card and a family discussion will ensure that the decision made is the one you want.

Can I donate my body to medical research?

Yes, almost anyone can be considered a potential donor. You should talk to the medical school, research institute or organ procurement organization in your area before designating your donation preferences because those entities may require specific documentation, completed prior to death, to make the donation valid. Occasionally, there are fees associated with body donation for medical education. The designation can be made on your driver's license or on the anatomical gift section of your Power of Attorney for Health Care.

When should I decide whether I want to be designated as a potential donor?

The time is now. Sign your driver's license and let your family know your decision.

Will age, health status or poor eyesight make organ or tissue donation impossible?

Almost anyone can be considered a potential donor. Your age and medical history should not influence your decision to become a donor. Medical professionals carefully evaluate what organs or tissues are medically suitable for transplant.

Is there any cost involved for my family with organ and tissue donation?

No. The donation will be done at no financial cost to your family.

Will my preferences to become a donor affect my medical care or treatment?

No. Physicians and other health care professionals will always try to save your life. Donation becomes possible only after death is declared.

Is organ donation against my religion?

Most religious faiths support organ and tissue donation and many religious leaders nationwide strongly support donation because it brings life and health to another human being. You should talk to your clergy for peace of mind.

What if my family opposes donation?

The best way to ensure your wishes are carried out is to tell your family how strongly you feel about being an organ and tissue donor. It also is very important to sign your driver's license and record your wishes in legal documents, including your Power of Attorney for Health Care.

RESOURCE LIST

For more information on health care planning, contact:

Alzheimer's Association of Southeastern Wisconsin
6130 W. National Avenue, Suite 200
Milwaukee, WI 53214-3254
(414) 479-8800
(800) 922-2413

Center for the Study of Bioethics
Medical College of Wisconsin
8701 Watertown Plank Road
Milwaukee, WI 53226
(414) 456-8498

Elder Law Center/Coalition of Wisconsin Aging Groups
2850 Dairy Drive, Suite 100
Madison, WI 53718
(608) 224-0606

State Bar of Wisconsin
5302 Eastpark Blvd.
P.O. Box 7158
Madison, WI 53707-7158
(800) 728-7788
www.legalexplorer.com

Wisconsin Medical Society
330 E. Lakeside Street
P.O. Box 1109
Madison, WI 53701-1109
(866) 442-3800 (toll-free)
Fax: (608) 442-3802

Wisconsin Hospital Association
5510 Research Park Drive
P.O. Box 259038
Madison, WI 53725-9038
(608) 274-1820
Fax: (608) 274-8554

Department of Health and Family Services
Division of Public Health
1 W. Wilson Street
P.O. Box 2659
Madison, WI 53702
(608) 266-1251

For more information on organ and tissue donation, contact:

Allograft Resources, Inc.
3553 University Ave.
Madison, WI 53705
(608) 231-9050

Lions Eye Bank of Wisconsin, Inc.
2302 International Lane, Suite 200
Madison, WI 53704-3157
(877) 233-2354 toll-free
(608) 233-2354
Fax: (608) 233-2895

National Kidney Foundation of Wisconsin
16655 W. Bluemound Rd, Suite 240
Brookfield, WI 53005-5935
(262) 821-0705
(800) 543-6393 toll-free

University of Wisconsin Hospital and Clinics - Organ Procurement Organization
Room F8/106
600 Highland Avenue
Madison, WI 53792
(608) 265-0356

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Wisconsin Donor Network
9200 W. Wisconsin Ave.
Milwaukee, WI 53226
(414) 805-2024
(800) 423-5405

Wisconsin Tissue Bank
2801 W. Kinnickinnic River Pkwy.
Suite L080
Milwaukee, WI 53215
(800) 722-8230

For more information on donating your body to science, contact:

Anatomical Gifts Registry
Department of Cellular Biology,
Neurobiology and Anatomy
–Medical College of Wisconsin
8701 Watertown Plank Rd.
Milwaukee, WI 53226
(414) 456-8261

University of Wisconsin
Medical School
Body Donation Program
1300 University Ave.
Madison, WI 53706
(608) 262-2888

University of Wisconsin Medical School
Department of Anatomy
1300 University Ave.
Madison, WI 53706
(608) 265-3295

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