What You Need to Know About Advanced Directives

If you become sick or are badly injured and unable to speak for yourself, an advanced directive document speaks for you.

What is an advance directive?
An advanced directive is a document that allows you to make your health care desires clear to family and health care professionals while you are mentally capable and healthy. This document tells your family and doctor(s) what your wishes are in the event you become unable to speak for yourself. Having an advance directive eliminates the burden of guessing about your health care wishes.

What are the types of advance directives?
Alabama statutes honor two different types of advance directives: the advance directive for health care and the health care durable power of attorney. You may fill out a form provided by Alabama law to put these documents in place. The living will, the durable power of attorney (POA), or the proxy appointment may be put in place by completing the necessary form.

What is a living will?
The living will gives instructions whether to withhold or withdraw treatment in the event you are terminally ill with death approaching soon, or in a state of permanent unconsciousness. The living will directs your doctor on whether to provide life-sustaining treatment or a feeding tube if you are unable to speak for yourself. The living will does not apply to all health care decisions, but only grants authority for life-sustaining treatment.

What is a durable power of attorney?
If you lose the ability to make decisions about your health care, the POA appoints a proxy to make health care decisions for you along with your doctor. Your proxy can tell the doctor or hospital exactly what care you would desire in all types of health care decisions, as well as those decisions concerning life-sustaining treatment. Precious time may be saved and costly court orders may be avoided by having a POA. The term “durable” means the document remains effective even if you become incapacitated. In Alabama, all POAs are presumed durable, and remain effective if you become incapacitated, unless specifically stated otherwise.
How and when do I set up an advance directive?
You should set up an advance directive while you are mentally and physically capable. Alabama law provides a form to set up both the living will and the POA. This form is available online at:

http://www.alabar.org/members/advdirective.pdf

You can also find it at courthouses, hospitals, nursing homes, and through the Alabama Medicaid Agency. The Advance Directive for Health Care Form (Living Will and Health Care Proxy) may also be available through your attorney.

Your attorney may help you complete the form or should you decide to fill out the form yourself, make sure to read it completely. If the form is not filled out correctly, it may be invalid at the time when you need it the most. You may also choose for your attorney to draw up an individual document for you. Make sure to consult your attorney and health care professional(s) with questions. Also, talk to your family about your wishes.

What happens if I don’t have an advance directive?
Not having an advance directive in place makes it harder on your family. If you are unable to speak for yourself, those you love are left to determine your health care wishes. If you do not have a proxy, your loved ones may spend time and money in court to make decisions concerning you and your health care.

Is an advance directive required?
No, this is not a required document. Even though federal law requires hospitals and other health care facilities to tell patients about advance directives during admission, health care providers cannot require you to have one.

Can I change my mind about my wishes?
Yes, you may change your mind or revoke an advance directive at any time by:

- Destroying the document by burning it, tearing or obliterating it, or instructing someone else to destroy the document in your presence;
- Writing or signing a cancellation;
- Expressing verbally your intent to cancel the document in the presence of at least two witnesses; or
- Writing a new document.

Make sure, if you decide to change or revoke an advance directive, that you collect all copies of the document from all sources to insure that all previous copies are destroyed. Otherwise, there may be no evidence of your revoking the advance directive.

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For more information, call (256) 372-4939 or consult a lawyer.

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