



ASA DIX LEGAL BRIEF

A PREVENTIVE LAW SERVICE OF THE JOINT READINESS CENTER LEGAL SECTION
UNITED STATES ARMY SUPPORT ACTIVITY DIX
KEEPING YOU INFORMED ON YOUR PERSONAL LEGAL NEEDS

PRIVACY ACT STATEMENT

AUTHORITY: Title 10, USC Section 3013. **PRINCIPLE PURPOSE:** To assist the attorney in preparing legal documents for the client and to prepare statistical reports on legal assistance services. **ROUTINE USES:** To provide legal advice and to prepare legal documents for the client. **DISCLOSURE:** Is voluntary; however, nondisclosure may preclude the legal assistance desired by the client.

ADVANCE MEDICAL DIRECTIVES WORKSHEET

1) LIVING WILLS

2) HEALTH CARE POWER OF ATTORNEY

Generally, the term Advance Medical Directives refers to two types of special legal documents: Living Wills and Health Care Powers of Attorney (HCPOA). Both types of Advance Medical Directives allow you to provide instructions about your future medical care if you become mentally incapable of making decisions. It is important to note that some states use their own terminology for such directives. For example, the State of New Jersey refers to the overall category as “Advance Directives for Health Care”, a living will is also referred to as an “Instruction Directive”, and an HCPOA is referred to as a “Proxy Directive or Durable Power of Attorney for Health Care”. If both the Living Will and HCPOA are combined into one document, New Jersey refers to that document as a Combined Directive.

A Living Will is a written declaration in which you state in advance your wishes about the use of life-prolonging medical care if you become terminally ill and unable to communicate or a physician has determined that you will not recover from a vegetative state due to brain damage. Usually, you will be in a state that if you do not receive life-sustaining treatment (*e.g.*, intravenous feeding, respirator), you will die. If you do not want to burden your family with the medical expenses and prolonged grief involved in keeping you alive, when there is no reasonable hope of revival, a Living Will typically authorizes withholding or turning off of life-sustaining treatment. If your Living Will is properly prepared and clearly states your wishes, the hospital or doctor should abide by it, and will, in turn, be immune from criminal or civil liability for withholding treatment. Some people worry that by making a Living Will, they are authorizing abandonment by the medical system. However, a Living Will can state whatever your wishes are regarding treatment; so even if you prefer to receive all possible treatment, whatever your condition, it is a good idea to state those wishes in a Living Will.

Do you want a Living Will? Yes No

If you currently live in a state other than the one in which you are a legal resident, you may want your Living Will to be drafted in accordance with the laws of the state you actually live and not your state of legal residence, because it is more likely to be used where you currently live.

Do you wish to have the Living Will governed by the laws of the state where you currently live?

Yes No

Do you wish to specify that you desire to donate your body organs for transplant upon death? Yes No

If yes, are you also willing to donate organs and tissue for medical, educational, or scientific purposes?

Yes No

If yes to either organ donation question, is there a limitation as to which organs may be donated or any restrictions? Yes No

If yes, please specify _____

Do you wish to specify that, if possible and if it does not place an undue burden upon family, that you prefer to die at home rather than in a hospital? Yes No

Do you prefer to receive all possible treatment, whatever your condition? Yes No

Another important health care document is the Health Care Power of Attorney for medical care. You may execute this document in addition to, or in lieu of the Living Will. This is a special kind of durable power of attorney dealing with health-care planning. It allows you to appoint someone else, referred to as your agent, to make health-care decisions for you if you become incapable of making such decisions, including, if you wish, the decision to refuse intravenous feeding or turn off the respirator if a physician determines that you are brain dead. The HCPOA can also be used to make medical decisions beyond the life-ending decisions dictated in a Living Will, such as admitting you to a nursing home or consenting to surgeries. Having both a Living Will and a HCPOA enables you to handle all areas of disability, or gray-area cases, where it is not certain that you are terminally ill, or your doctor or state law fail to give your wishes due weight. Obviously, decisions so important should be discussed in advance with your agent, who should be a spouse, child or close trusted friend. You should try to talk about the various contingencies that might arise and what he or she should do in each case. Make sure you put a copy in your medical record. Since it is much more flexible than a Living Will, the HCPOA is a very useful document that could save you and your family much anxiety, grief, and money.

A. Do you want a Health Care Power of Attorney? Yes No

B. Do you want your spouse to act as your agent? Yes No

Unless you have selected your spouse to act as your agent and your spouse has the same address you do, please provide the name, address, phone number, and relationship of your first choice of agent:

C. If you have a second choice, do you want:

____ both agents to have the authority to act separately.

____ to require both agents to act jointly unless one is incapacitated.

____ the second agent to be as a successor, acting only if the first choice is incapacitated.

Please provide the name, address, phone number, and relationship of your second choice of agent:

ASA DIX LEGAL BRIEF is one of a series of Information Papers from the ASA Dix Joint Readiness Legal Section containing general legal information on topics which Legal Assistance Attorneys frequently advise on. Information provided is general in nature and does not constitute formal, specific legal advice. Consult an Attorney for specific legal advice for your particular situation. You may schedule a legal assistance appointment by calling the Joint Base Legal Assistance Division at 609-754-2010. February 2010.