

# **YOUR RIGHT TO DIRECT YOUR FUTURE HEALTH NEEDS**

*Who Will Make Your Medical Decisions  
When You Can't?*



**STATE OF WISCONSIN  
Department of Health Services  
Division of Quality Assurance**

P-62025 (07/2025)

You have the right to make decisions about your health care. This includes the right to accept or refuse medical or surgical treatment. You also have the right to plan and direct the types of health care you may receive in the event you become unable to express your wishes. You can do this by making an “advance directive.”

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## What is an “advance directive?”

An advance directive describes, in writing, your choices about the treatments you want or do not want or about how health care decisions should be made for you if you become incapacitated and cannot express your wishes.

An advance directive expresses **your** personal wishes, beliefs, and values. When you make an advance directive, you should consider issues like dying, living as long as possible, being kept alive on machines, being independent, and quality of life. Addressing these issues may be difficult but it is necessary if you want others to follow your wishes.

## Who can make an advance directive?

In Wisconsin, if you are 18 years of age or older and of “sound mind,” you can make an advance directive.

## Why should I make an advance directive?

An advance directive speaks for you when you are unable to speak for yourself.

## How do I make an advance directive?

There are three ways to make a formal advance directive in Wisconsin:

1. Living will
2. Power of attorney for health care (POAHC)
3. Legal document drafted by your attorney

You can complete either a **living will** or a **power of attorney for health care** document. These forms may be available from your health care provider, can be obtained from the Division of Public Health (listed on last page) or accessed from the Department’s form library at:

<http://dhs.wisconsin.gov/forms/DQAnum.asp>

You do not need an attorney to complete these forms. However, two persons must witness your signature. The forms describe who may or may not be a witness.

A third way to express your wishes is to have a legal document drafted by your attorney and appropriately witnessed.

## What is a “living will?”

A living will informs your physician regarding your preferences or wishes about life-sustaining measures to be used when you are near death or in a persistent vegetative state.

The life-sustaining measures mentioned in the living will include treatments or machines that keep your heart, lungs, or kidneys functioning when they are unable to do so on their own.

A living will goes into effect only when two physicians, one of whom is your attending physician, agree in writing that you are either near death or are in a persistent vegetative state that cannot be reversed and are unable to understand or express your health care choices.

## What is a “power of attorney for health care?”

The power of attorney for health care is a document in which you appoint another person (a “health care agent”) to make health care decisions for you ***in the event that you are not capable of making them yourself.*** A health care agent can make a wide range of health care decisions for you, such as whether or not you should have an operation, receive certain medications, or be placed on a life support system. In some areas of health care, your health care agent is not allowed to make decisions for you unless you give him or her specific authority in those areas when you complete the form. These areas are:

- Admission to long term care facilities
- Limitations on mental health treatment
- Health care decisions for pregnant women
- Pregnancy care
- Provision of a feeding tube

Your health care agent will make decisions for you based upon your directions, his or her knowledge about you and your wishes, and his or her opinion about what is best for you. It is important to choose someone who knows you well and to discuss your treatment preferences with him or her in advance.

You can also include specific instructions about the type of treatments you want or do not want (e.g., surgery) when you complete the form.

A power of attorney for health care goes into effect only when two physicians or a physician and a psychologist agree, in writing, that you can no longer understand your treatment options or express your health care choices to others.

## What is the difference between a living will and a power of attorney for health care (POAHC)?

A living will goes into effect only when your death is very near or when you are in a persistent vegetative state and you have lost the ability to make medical decisions. It deals only with the use or non-use of life sustaining measures.

A power of attorney for health care goes into effect when you are incapacitated and can no longer make health care decisions, but you do ***not*** have to be close to death or in a vegetative state. The power of attorney for health care also allows another person to speak for you and make health care decisions for you that are not limited to life-sustaining measures. The type of decisions this person can make depends upon how you complete the form.

## Should I have both a living will and a power of attorney for health care?

It is not necessary to have both a living will and a power of attorney for health care. If you do have both documents, you should make sure they do not conflict.

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

You can cancel or replace a living will or a power of attorney for health care at any time by expressing this verbally or in writing to your physician or health care provider. The different ways you can do this are also explained in the letter that accompanies the forms you complete.

## **Does my health care provider have to follow my advance directives?**

Some health care providers and physicians may have policies or beliefs that prohibit them from honoring certain wishes made in advance directives. It is important to discuss your wishes with them in advance to determine if they will honor your advance directives. If a physician or provider is unwilling to honor your wishes, the physician or provider must make a good faith effort to refer you to a physician or provider who will meet your needs.

## **What happens if I don't make an advance directive?**

You will receive medical care if you do not make an advance directive. However, there is a greater chance you will not receive the types of care and treatments you want if you have not made an advance directive.

If you cannot speak for yourself and have not made an advance directive, a physician will generally look to your family, friends, or clergy for decisions about your care. If the physician or health care facility is unsure, or if your family is in disagreement about the decision, they may ask courts to appoint a person (a guardian) who will make decisions for you.

## **Where should I keep my advance directive?**

You should keep your advance directive in a safe place where you and others can easily find it. (Do not keep it in a bank safe deposit box.) You should make sure your family members and your attorney, if you have one, know you have made an advance directive and know where it is located. You should also ask your physician and your other health care providers to make your advance directive part of your permanent medical record.

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## **How do I obtain copies of a living will and/or a power of attorney for health care form?**

- Send one business size, self-addressed, stamped envelope to:  
**Wisconsin Division of Public Health**  
**ATTN: POA**  
**PO Box 2659**  
**Madison, WI 53701-2659**
- Print the forms from the internet: <http://dhs.wisconsin.gov/forms/AdvDirectives/index.htm>
- These forms, or variations of these forms, may also be available from your attorney, physician, or hospital.

## **I have some questions. Who can answer them or give me additional help?**

Your physician or other health care providers can help you understand your health needs and the options for treating these needs. They can answer questions about advance directives.

You can also contact your attorney or the following agencies, if you have questions about advance directives.

- Greater Wisconsin Agency on Aging Resources**

Greater Wisconsin Agency on Aging Resources  
Wisconsin Guardianship Support Center

1414 MacArthur Rd., Ste. A  
Madison, WI 53714

Telephone: 608-243-5670

Toll-Free Helpline: 855-409-9410

FAX: 608-813-0974

Email: [guardian@awaar.org](mailto:guardian@awaar.org)

Web Address: <http://www.gwaar.org> or <http://www.gwaar.org/guardianship-resources>

- Wisconsin Board on Aging and Long Term Care (BOALTC)**

Wisconsin BOALTC  
Ombudsman and Volunteer Ombudsman Program  
1402 Pankratz St., Ste. 111  
Madison, WI 53704-4001

Toll-free Telephone: 800-815-0015

FAX: 608-246-7001

Email: [BOALTC@wisconsin.gov](mailto:BOALTC@wisconsin.gov)

Web Address: <http://longtermcare@wi.gov>

- Wisconsin Division of Public Health**

DHS / Division of Public Health  
ATTN: POA  
P.O. Box 2659  
Madison, WI 53701-2659

Telephone: 608-266-1251

- Wisconsin Division of Quality Assurance – Regional Offices**

The Division of Quality Assurance (DQA), Bureau of Nursing Home Resident Care (BNHRC) central office and regional offices contact information are listed online at:

[Division of Quality Assurance: Bureau of Nursing Home Resident Care Regional Offices | Wisconsin Department of Health Services](http://www.dhs.wisconsin.gov/dqa/regionaloffices.htm)