

Advance Directives

On July 1, 2000, the California Health Care Decisions Law went into effect [A.B. 891, 1999 Stat. ch. 658]. The law made extensive changes in the rules governing "advance health care directives," which allow persons to designate how they will be cared for in the event that they later become incompetent. The law revoked existing rules dealing with the designation of surrogates to make health care decisions on behalf of incompetent patients, and replaced them with a new set of standards. Thus, the old durable power of attorney for health care statute and the Natural Death Act were repealed. However, documents created under the old laws prior to July 1, 2000 continue to be valid under the same terms on which they were drafted [Cal. Probate Code §4665]. Documents created after July 1, 2000 must conform to the requirements of the California Health Care Decisions Law. In addition, advance directives created in other states under the laws of those states are valid in California [Cal. Probate Code §4676(a)].

The California Health Care Decisions Law identifies two types of advance directives that a competent adult may sign to deal with future situations where he or she may be incompetent. The first is an "individual health care instruction," by which a person states his or her wishes concerning treatment or non-treatment in particular named circumstances, including, possibly, end-of-life situations. The second is a "power of attorney," by which an individual designates an "agent" to make decisions on his or her behalf in the event of incompetency. The California Health Care Decisions Law presents a model form entitled "Advance Health Care Directive" that serves as both a power of attorney and an individual health care instruction [Cal. Probate Code §4701].

An Advance Health Care Directive is the best way to make sure that your health care wishes are known and considered if for any reason you are unable to speak for yourself. By completing a form called an "Advance Health Care Directive" California law allows you to do either or both of two things:

First, you may appoint another person to be your health care "agent." This person (who may also be known as your "attorney-in-fact") will have legal authority to make decisions about your medical care if you become unable to make these decisions for yourself. Second, you may write down your health care wishes in the Advance Health Care Directive form—for example, a desire not to receive treatment that only prolongs the dying process if you are terminally ill.

The Advance Health Care Directive is now the legally recognized format for a living will in California. It replaces the Natural Death Act Declaration. The Advance Health Care Directive allows you to do more than the traditional living will, which only states your desire not to receive life-sustaining treatment if you are terminally ill or permanently unconscious. An Advance Health Care Directive allows you to state your wishes about refusing or accepting life-sustaining treatment in any situation.

Unlike a living will, an Advance Health Care Directive also can be used to state your desires about your health care in any situation in which you are unable to make your own decisions, not just when you are in a coma or are terminally ill. In addition, an Advance Health Care Directive allows you to appoint someone you trust to speak for you when you are incapacitated. You do not need a separate living will if you have already stated your wishes about life-sustaining treatment in an Advance Health Care Directive.

The Advance Health Care Directive has replaced the Durable Power of Attorney for Health Care (or "DPAHC") as the legally recognized document for appointing a health care agent in California. The Advance Health Care Directive allows you to do more than a DPAHC. An Advance Health Care Directive permits you not only to appoint an agent, but to give instructions about your own health care. You can now do either or both of these things.

Our Policy: While all of these documents play a very important role as to how healthcare decisions are made on your behalf, based upon reasons of conscience **Rancho Bernardo Surgery Center DOES NOT** honor Advance Directives during your episode of care at the facility. If you have an Advance Directive, please bring it with you for your visit to Rancho Bernardo Surgery Center and we will place it in your medical record for reference in the unlikely event you are transferred to the hospital.

Additional information and resources, including sample forms, are available from the website of the Office of the Attorney General: http://ag.ca.gov/consumers/general/adv_hc_dir.htm. We can also provide you with a sample Advance Health Care Directive form upon your request.