

# Changes In Laws Give Patients More Control Over Decisions

Patients have greater control over health care decisions affecting them now, as a result of changes in state and federal law.

Starting this month, a patient admitted to a hospital for treatment has the opportunity to choose the type of treatment he or she will receive, even when that person is not competent enough to do so for themselves.

This right is provided by the Patient Self-Determination Act of 1990, which went into effect Dec. 1. It requires all health care facilities that receive Medicare or Medicaid funds to inform patients of their rights regarding health care decisions.

This past summer the N.C. General Assembly passed two related state laws, H.B. 832 expanded the scope of the state's Natural Death Act and recognized by law a health care power of attorney. Both changes became effective Oct. 1.

The Brunswick Hospital began implementing the federal policy Dec. 1, as mandated by law said Daphne Yarbrough, director of marketing. Other area hospitals are also implementing it.

Patients are asked about advance directive documents as they are admitted to the hospital.

Patients designate their treatment options through documents—called advance directives—that must be executed before they enter the hospital in order to apply during that hospital stay.

Ms. Yarbrough said there are three types of advance directive documents: a living will, a medical directive, and designation of agent for health care decisions document. Each addresses a different area of concern.

In an advance directive the individual either states choices regarding medical treatment or appoints a health care surrogate with a durable power of attorney in the event he or she should lose the capability to make decisions.

A durable power of attorney remains or becomes effective after one becomes incapacitated. In order for the power of attorney to be durable, it must be filed at an appropriate Register of Deeds office.

**The Living Will**  
A living will is a declaration of a desire to die a natural death. Through the execution of a living will, an individual states whether or not he or she would desire for life to be prolonged by extraordinary means in the event of a terminal and incurable condition or a persistent vegetative state.

The living will can instruct the doctor to withhold or stop extraordinary means only, or to also withhold or stop artificial nutrition or hydration.

In order for such a will to be le-

*Patients designate treatment options through documents that must be executed in advance in order to apply during that hospital stay.*

—Daphne Yarbrough  
The Brunswick Hospital

gal, it must be signed by two witnesses who are not related by blood or marriage to the individual or his or her spouse, and who are not associated with health care agencies and who do not have a claim on the individual's estate. It must also be signed and sealed by a notary public.

In addition, the will can only be written and signed when the individual is mentally alert and competent.

Also, a living will executed in North Carolina may not be valid in other states because the documents vary from state to state. Someone who spends a lot of time in other states may want to sign a living will for each state.

**The Medical Directive**

Another type of advance directive document is the medical directive. With this, a patient is able to choose in advance the types of medical intervention he or she may not desire in certain situations.

Choices included in this document can range from the use of antibiotics for the treatment of pneumonia to the use of cardiopulmonary resuscitation (CPR) for the purpose of bringing an individual back to life when his or her heart stops while in an incapacitating state.

The patient may also use this document to specify, in advance, if movement from the home, hospice or a nursing home to the hospital would be desired.

The medical directive can also be used as a means of refusing treatment.

**Designation Of Agent**

The third type of advance directive is the designation of agent for health care decision, or a durable power of attorney for health care. This document enables the individual to name a surrogate who will make health care decisions for that individual when he or she is incapacitated.

The agent can be anyone: friend, family member, attorney, whomever the individual chooses.

Although North Carolina allows a person to name a surrogate, it does not specify whether the surrogate can make decisions pertaining to the withholding of medical treatment.

The procedures designated in an advance directive apply whenever an adult patient is admitted on an in-

patient basis, whether the patient is competent or incompetent.

Individuals with advance directives should provide copies of the documents for their physicians, spouses and surrogates, or any other people who should have access to them, advises Ms. Yarbrough.

Individuals should also discuss their wishes with their doctors and health care agents.

If an admitting physician has a

copy of the patient's advance directive, he should provide the hospital with all of the necessary information prior to the patient's admission.

When the patient is admitted, he or she will be asked if a living will has been executed and a health care surrogate appointed, and whether any advance directives in the patient's charts are up to date.

Once the documents are added to the patient's charts, they become a permanent part of the patient's records. That means they will not have to be resubmitted to the hospital should the patient be readmitted at a later date.

However, advance directives may be revoked by the patient at any time by destroying any original copies and notifying the family physician.

They are not considered canceled until the doctor is notified.

In the event the patient is transferred, a copy of the advance direc-

tives will be sent along with other appropriate documents to the next facility.

According to federal law, said Ms. Yarbrough, once a patient has been hospitalized, the hospital cannot obtain a living will for them or even witness the execution of any advance directive document. Any documents must be signed and notarized before hospitalization.

Ms. Yarbrough cautions that advance directives may not guarantee that a patient's wishes will be honored. The ultimate decision will be the responsibility of the attending physician, she said. His or her decision will be based on the patient's wishes, his own knowledge and the expected outcome for the patient.

Still, she said, there are many benefits for securing the documents. They expedite decision-making during a difficult time. All parties involved in a patient's care know that patient's views before an urgent situ-

ation arises.  
"Of great importance also is the fact that it will help to avoid unnecessary pain and suffering for both the patient and the family," she said.

**Get More Information**

More information on advance directives is available from Sherry Hendricksen, R.N., director of social services, at The Brunswick Hospital.

Also, the N.C. Cooperative Extension Service has updated several related bulletins to reflect changes in the laws. For more information about living wills, see *The Living Will*, HE-364, for more information about health care powers of attorney, read *Health Care Power of Attorney*, HE-387, or if not available, the more general *Legal Authority*, HE-363. They can be obtained through the Brunswick County Extension Office at Bolivia. None of the documents are a substitute for advice from a family attorney.




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