

A Primer on Health Care Directive Terms

A comprehensive estate plan has many objectives. They include ensuring your assets are passed on to your loved ones according to your wishes while minimizing gift and estate taxes. Another equally important objective is to communicate your preferences in advance for medical care in the event you're incapacitated and cannot express your wishes. To that end, it's critical to include advance health care directives in your estate plan.

One problem: There's often disagreement about the legal names given to those directives and their optimal use, depending on your jurisdiction. Here are a few health care directive-related terms you should be familiar with:

Living will. A living will is a legal document that establishes criteria for prolonging or ending medical treatment. It indicates the types of medical treatment you want, or do not want, in the event you suffer from a terminal illness or are incapacitated.

This document doesn't take effect unless you're incapacitated. Typically, a physician must certify that you're suffering from a terminal illness or that you're permanently unconscious. Address common end-of-life decisions in your living will. This may require consultations with a physician.

Be aware that the requirements for living wills vary from state to state. Have an attorney who's experienced in these matters prepare your living will be based on the prevailing laws.

Health care power of attorney. Comparable to a durable power of attorney that gives an "agent" authority to handle your financial affairs if you're incapacitated, a health care power of attorney (or medical power of attorney) enables another person to make health care decisions for you. This is also called a "health care proxy" in some states.

Choosing an agent is critical. You can't anticipate every situation that might arise — virtually no one can — where it's likely that someone will have to make decisions concerning your health. Therefore, the agent should be a person who knows you well and understands your general outlook. Frequently, this is a family member, close friend or trusted professional. Remember to designate a successor agent if your first choice can't do the job.

DNRs and DNIs. Despite the common perception, it's not a legal requirement for you to have a living will or an advance directive on file to implement a "do not resuscitate" (DNR) or "do not intubate" (DNI) order. To establish a DNR or DNI order, discuss your preferences with your physician and have him or her prepare the paperwork. The order is then placed in your medical file.

In fact, even if you already have a living will spelling out your preferences regarding resuscitation and intubation, it's still a good idea to create DNR or DNI orders when you're admitted to a new hospital or health care facility. This can avoid confusion during emotionally charged times.

POLSTs. In some states, an estate plan may include a document known as a “physician order for life-sustaining treatment” (POLST) or a similar name. A POLST may be used by a person who has already been diagnosed with a serious illness.

This document doesn’t replace your other directives. Instead, it complements other directives to ensure you receive the treatment you prefer in case of an emergency. Your physician completes the form based on your instructions and personal conversations.

The POLST is posted by your bedside if you’re hospitalized. If you’re residing at a health care facility, it should be prominently displayed where medical or emergency personnel can easily view it.

Consult your attorney, physician and health care agent

Advance directives must be put in writing. Each state has different forms and requirements for creating these legal documents. Depending on where you live, you may need to have certain forms signed by a witness or notarized. If you’re unsure of the requirements or the process, contact an attorney for assistance.

Review your advance directives with your physician and your health care agent to be sure you’ve accurately filled out the forms. Then let all the interested parties — including your attorney, physician, power of attorney agent and family members — know where the documents are located and how to access them.