

A Guide to Health Care Directives

A Resource from the North Dakota Catholic Conference

Health Care Directives give instructions for future health care decisions. To assist people who wish to have a health care directive, the North Dakota Catholic Conference has prepared a Catholic Health Care Directive that meets the state's legal requirements, expresses Church teaching, and reflects the recommendations of church, health care, and community leaders. This Guide answers some basic questions about the law, Church teaching, and completing a health care directive.

What do all these terms mean?

A “**living will**” usually means a document in which a person states *only* his or her health care wishes. A “**durable power of attorney for health care**” usually means a document in which a person appoints someone to make health care decisions on his or her behalf. “**Advance directive**” usually means a living will, a durable power of attorney for health care, or a combination of the two. “**Health care directive**” is what North Dakota state law calls any advance directive. A “**health care agent**” is what state law calls the person appointed through a health care directive to make health care decisions for another.

Why would I want a health care directive?

A health care directive can help make sure that your health care wishes are followed when you cannot speak for yourself. In addition, a health care directive can help your family and friends during what may be a difficult time.

What happens if I don't have a health care directive?

In North Dakota, if you have not appointed a health care agent and you are unable to make or communicate health care decisions, state law determines who makes health care decisions for you. The law authorizes persons in the following categories, *in the order listed*, to make decisions: your health care agent unless a court specifically authorizes a guardian to make decisions for you, your court-appointed guardian or custodian, your spouse, any of your children, your parents, your adult brothers and sisters, your grandparents, your

adult grandchildren, and an adult friend or close relative. No one in a lower category may make the decision if someone in a higher category has refused to consent.

When making a health care decision, the authorized person must determine whether you would consent to the care if you were able to do so. If the person is unable to make this determination, he or she may only consent to the proposed health care if it is in your best interests.

Do I need to use a special form?

No. North Dakota law has an *optional* health care directive form, but many other forms exist that meet the state's legal requirements. In fact, you do not have to use a pre-printed form.

Any written statement that meets these requirements is valid in North Dakota:

- States the name of the person to whom it applies;
- Includes a health care directive, the appointment of an agent, or both;
- Is signed and dated by the person to whom it applies or by another person authorized to sign on behalf of the person to whom it applies;
- Is executed by a person with the capacity to understand, make, and communicate decisions; and
- Contains verification of the required signature, either by a notary public or by qualified witnesses.

If you are Catholic, the North Dakota Catholic Conference suggests that you use the *Catholic Health Care Directive* form. If the form is not included with this document, you can get one by calling the conference at 1-888-419-1237 or by downloading it at ndcatholic.org.

Do I need an attorney? What will this cost?

No. It is not necessary to have an attorney provide or fill out the form. However, you should contact an attorney if you have legal questions regarding advance care planning. Health care directive forms are available at no cost from a number of sources, including the North Dakota Catholic Conference.

Should I appoint a health care agent or just write down my wishes?

The North Dakota Catholic Conference recommends that your health care directive include the appointment of a health care agent.

Written instructions alone are only as good as your ability to accurately predict every possible future medical condition and every future medical treatment option. This is an almost impossible task. In addition, without a health care agent, the person interpreting those instructions might be someone who does not truly know what you wanted.

By appointing a health care agent, you can make sure that someone who cares about you will apply your wishes and personal beliefs to the health care choices at hand – just as you would do. Even if you appoint a health care agent, you can still give written health care instructions to direct, guide, and even limit the actions of your agent.

Why does the hospital always ask if I have a living will? Do I have to have one?

Federal law requires health care providers to ask you if you have an advance directive. By habit, they often use the term “living will.” You are not required to have any advance directive and you do not have to use the form they provide.

Who can be my health care agent?

In North Dakota, your agent must be 18 years of age or older and must accept the appointment in writing. Talk beforehand to the person you wish to appoint. Find out if the person is willing to accept the responsibility. Tell the person about your wishes and preferences for care. Be sure the person is willing and able to follow your wishes.

I already have an advance directive. Do I need to do a new one? What if I want a new one?

Valid advance directives completed under the old law (before August 1, 2005) will still be honored. Validly executing a new health care directive automatically revokes any older advance directive. Inform everyone who might have a copy of that old document that it is no longer valid and that you have a new health care directive.

On health care directive forms, who is the “principal,” “declarant,” and “agent?”

You, the person executing a health care directive, are the “principal.” When verifying your identity before a witness or notary public, you are also the “declarant.” The person you appoint as your health care agent is the “agent.”

Will an advance directive that I completed in another state be accepted in North Dakota?

Yes, so long as it complies with the laws of that state and is not contrary to certain North Dakota laws, such as the law against assisted suicide.

Will a health care directive that I completed in North Dakota be accepted in another state?

Most states have reciprocity statutes that give recognition to advance directives completed in other states. Even if a health care directive completed in North Dakota does not meet some of the technical requirements of another state's law, the directive should still be followed since it expresses the your wishes.

What should I do with my health care directive?

Provide a copy of your health care directive to your doctor and any other health care providers such as your hospital, nursing facility, hospice, or home health agency. In addition, you may want to give copies of your health care directive to other persons, such as close family members, your priest, and your attorney, if you have one.

What fundamental principles should guide a Catholic, and indeed any person, who is thinking about health care decisions?

1. *Human life is a precious gift from God.* This truth should inform all health care decisions. Every person has a duty to preserve his or her life and to use it for God's glory.
2. *We have the right to direct our own care and the responsibility to act according to the principles of Catholic moral teaching.* Each person has a right to clear and accurate information about a proposed course of treatment and its consequences, so that the person can make an informed decision about whether to receive or not receive the proposed treatment.
3. *Suicide, euthanasia, and acts that intentionally and directly would cause death by deed or omission, are never morally acceptable.*
4. *Death is a beginning, not an end.* Death, being conquered by Christ, need not be resisted by any and every means and a person may refuse medical treatment that is *extraordinary*. A treatment is extraordinary when it offers little or no hope of benefit or cannot be provided without undue burden, expense, or pain.
5. *There should be a strong presumption in favor of providing a person with nutrition (food) and hydration (water), even if medically assisted.* Providing nutrition and hydration should be considered ordinary care since it serves a life-preserving purpose and the means of supplying food and water are relatively simple and - barring complications - generally without pain. Exceptional situations may exist in which this is not the case, such as when a person is no longer able to assimilate nourishment, or when death is so imminent that withholding or withdrawing food and water will not be the actual cause of death. In no case should food or water be removed with the intent to cause death.
6. *We have the right to comfort and to seek relief from pain.* Although our faith teaches that we can find meaning in suffering, no one is obligated to experience pain. A person has a right to pain relief and comfort care, even if the method or treatment *indirectly* and *unintentionally* shortens life. However, it is not right to deprive the dying person of consciousness without a serious reason.

Is this all there is to know about making ethical health care decisions?

No. These statements are only some basic principles. Some situations, such as pregnancy or organ donation, involve other principles. Understanding and applying these principles to specific cases can be difficult. At times, your bishop or the Pope may provide clarification on the Church's teaching and guidance for specific situations.

For additional resources and information on making ethical health care decisions, contact:

*Fargo Diocese Respect Life Office
(701-356-7910)*

web site: www.fargodiocese.org

*Bismarck Diocese Pastoral Center
(701-222-3035)*

*North Dakota Catholic Conference
(1-888-419-1237; 701-223-2519)*

web site: ndcatholic.org

How can I make sure that decisions made on my behalf are consistent with my Catholic beliefs?

State in your health care directive your desire to have all health care decisions made in a manner consistent with Catholic teaching. The *Catholic Health Care Directive* does this.

Appoint a health care agent who shares your beliefs or, at least, sincerely intends to respect your wishes.

If your health care agent is not familiar with Catholic teaching on these matters, give your agent the name of a priest or lay leader who can provide guidance. You can include the name and contact information of that person in the health care directive. You may also want to give this information to your health care provider.

Are Catholics morally obligated to have an advance directive?

No. However, a health care directive, especially one that appoints a health care agent, is one way to make sure that your care and treatment is consistent with the Catholic faith and your wishes.

Is organ donation morally acceptable? Can I include a donation in my health care directive?

Organ donation after death is a noble and meritorious act and is to be encouraged as an expression of generous solidarity. You should, however, give explicit consent. The *Catholic Health Care Directive* includes an optional section where you can give that consent.

My friend is not Catholic, but likes the Catholic Health Care Directive. Can she cross out the parts that would not apply to her?

Yes, she can. However, it might be a good idea to initial the changes. She can also contact the North Dakota Catholic Conference and we will send you a version of the form that retains the ethical principles in the Catholic Health Directive, but does not contain specific references to the Catholic faith.

How can I make sure my spiritual needs are met?

When you enter a hospital or nursing home, state that you are a Catholic and want to have a priest or lay minister care for your spiritual needs. Also state if you want to see a particular priest. Unless you have done this, certain privacy rules may prevent the hospital or nursing home from informing a priest about your presence or allowing him to visit.

If you cannot communicate your wishes when being admitted, your health care directive and health care agent can do this for you.

Include spiritual requests in your health care directive. The *Catholic Health Care Directive*, for example, includes a request for the Sacraments of Reconciliation, Anointing, and Eucharist as viaticum, if you are terminally ill. “Viaticum” literally means “food for the journey.” Death is not the end. Rather, it is only a “passing over” from this world to the Father. In preparation for this journey, the Church offers Eucharist as viaticum, i.e., Christ’s body and blood as food for the journey.

Have more questions?

Need copies of the Catholic Health Care Directive?

Visit the conference web site at: ndcatholic.org. The site includes more questions and answers, forms to download, and places to get more information.

You can also contact the North Dakota Catholic Conference:

701-223-2519

Toll-free at 1-888-419-1237

ndcatholic@btinet.net