

IF A CONSERVATOR IS APPOINTED, DOES S/HE HAVE TO RESPECT THE ADVANCE DIRECTIVE?

Except as authorized by a court, a conservator shall comply with a person's individual health care instructions and other wishes, if any, expressed while the person's had capacity and to the extent known to the conservator. A conservator may not revoke an advance directive unless the Probate Court expressly so authorizes.

WHAT HAPPENS IF AN ADVANCE DIRECTIVE IS NOT FOLLOWED?

Connecticut has state laws that support an individual's right to self-determination, and legal action can be taken to have the instructions in the advance directive or an individual's other expressed preferences respected and followed.

IMPORTANT REMINDERS

- **An advance directive has many parts and they do not all need to be completed.**
- **An advance directive is not the same as a WRAP (Wellness Recovery Action Plan).**
- **Advance directives should be reviewed and updated annually. New Releases must be signed every year.**

**For more assistance contact
Connecticut Legal Rights
Project, Inc.
Toll Free 1-877-402-2299
TTY 860-262-5066
www.clrp.org**

Connecticut Legal Rights Project, Inc., is a statewide non-profit agency which provides legal services to low income persons with mental health conditions, who reside in hospitals or the community, on matters related to their treatment, recovery, and civil rights.

This flyer provides general information, not legal advice. For answers to specific individual questions, call CLRP.

Advance Directives Flyers

Basics of Advance Directives for Health Care
Choosing A Health Care Representative
How To Be An Effective Health Care Representative
July 2016



**ADVANCE DIRECTIVES
FOR HEALTH CARE**

**BASICS OF
ADVANCE
DIRECTIVES FOR
HEALTH CARE**



**Advance directives can protect
personal preferences for
medical care**

**LEGAL REPRESENTATION FOR PEOPLE WITH
MENTAL HEALTH CONDITIONS**

WHAT IS AN ADVANCE DIRECTIVE FOR HEALTH CARE?

An advance directive is a legal document which allows people to indicate treatment preferences and designate someone to make decision on their behalf if they are unable to do so.

WHO CAN CREATE AN ADVANCE DIRECTIVE?

Any person 18 years or older who has the capacity to make legal and/or medical decisions may complete an advance directive. "Capacity" means the person is able to understand and appreciate the nature and consequences of health care decisions, including the benefits and disadvantages of such treatment, and to reach and communicate an informed decision.

CAN ANYONE BE FORCED TO MAKE AN ADVANCE DIRECTIVE FOR HEALTH CARE?

No one – not even an insurer, physician, mental health treatment provider, or conservator can force a person to make an advance directive.

WHAT IS A HEALTH CARE REPRESENTATIVE?

A health care representative is appointed to carry out the health care decisions and preferences of the person making the appointment if that person unable to give informed consent. A health care representative can accept or refuse any treatment, service or procedure used to diagnose or treat physical or mental condition, except as otherwise provided by law. A health care representative makes decisions stated in the advance directive. In addition, a health care representative can make decisions based on discussions about individual preferences if the advance directive does not clearly address them. **See our pamphlet: "HOW TO BE AN EFFECTIVE HEALTH CARE REPRESENTATIVE."**

WHO CAN BE A HEALTH CARE REPRESENTATIVE?

Health care representatives can be a family member or a close friend trusted to make serious decisions. The health care representative cannot be an attending physician; an operator, administrator or employee of a health care facility, unless s/he is related by blood, marriage, or adoption. **See our pamphlet: "CHOOSING A HEALTH CARE REPRESENTATIVE."**

WHEN DOES AN ADVANCE DIRECTIVE TAKE EFFECT?

An advance directive for health care takes effect **ONLY** when a primary physician decides an individual is unable to give informed consent. That means the physician believes the person can no longer actively take part in decisions, and unable to direct the physician as to medical care. At any time after the appointment of a health care representative, the attending physician shall disclose such determination of incapacity, in writing, upon the request of the person named as the health care representative.

WHAT PREFERENCES CAN BE INCLUDED IN THE ADVANCE DIRECTIVE?

An advance directive can cover any individual preferences regarding any treatment, including electroshock (electroconvulsive therapy or ECT), a particular brand of medication, or any aspect of health care. Most of the time preferences will be followed, except in rare situations like emergencies or when preferences alone cannot make something happen, like wanting a single room when insurance won't cover it.

DOES AN ADVANCE DIRECTIVE INCLUDE END OF LIFE DECISIONS?

An advance directive can include a living will which covers "end of life" treatment decisions. It is not required to be part of the advance directive; the person controls the content.

HOW DOES AN ADVANCE DIRECTIVE BECOME LEGAL?

Under state law, there are legal requirements for completing an advance directive. The document must have the individual's signature, the signature of two witnesses and a notary public, and the date the form was signed.

HOW CAN THE ADVANCE DIRECTIVE BE CHANGED OR REVOKED?

A living will and wishes concerning any aspect of health care, including the withholding or withdrawal of life support systems, may be revoked at any time and in any manner without regard to mental status. The requirements for changing an advance directive are the same as those for creating one. However, the appointment of a health care representative can only be revoked in writing, with the signature of person making the appointment and the signature of two witnesses. Revoking the appointment of a health care representative does not revoke health care instructions.

CAN A CONSERVATOR BE APPOINTED IN AN ADVANCE DIRECTIVE?

A person completing an advance directive can specify who he/she would prefer to be appointed as conservator. The Probate Court will consider the recommendation and follow it unless there is a reason not to do so.