

MICHIGAN NOTICE TO PATIENTS

REQUIRED BY THE PATIENT SELF DETERMINATION ACT (“PSDA”)

Distributed by the Michigan Department of Public Health
Bureau of Health Systems
Nov. 1991

YOUR RIGHTS TO MAKE MEDICAL TREATMENT DECISIONS

We are giving you this material to tell you about your right to make your own decisions about your medical treatment. As a competent adult, you have the right to accept or refuse any medical treatment. “Competent” means you have the ability to understand your medical condition and the medical treatments for it, to weigh the possible benefits and risks of each such treatment and then to decide whether you want to accept treatment or not.

WHO DECIDES WHAT TREATMENT I WILL GET?

As long as you are competent, you are the only person who can decide what medical treatment you want to accept or reject. You will be given information and advice about the pros and cons of different kinds of treatment and you can ask questions about your options. But only you can say “yes” or “no” to any treatment offered. You can say “no” even if the treatment you refuse might keep you alive longer and even if others want you to have it.

WHAT IF I’M IN NO CONDITION TO DECIDE?

If you become unable to make your own decisions about medical care, decisions will have to be made for you. If you haven’t given prior instructions, no one will know what you would want. There may be difficult questions: for instance, would you refuse treatment if you were unconscious and not likely to wake up? Would you refuse treatment if you were going to die soon no matter what? Would you want to receive any treatment your care givers recommend? When your wishes are not known, your family or the courts may have to decide what to do.

WHAT CAN I DO NOW TO SEE THAT MY WISHES ARE HONORED IN THE FUTURE?

While you are competent, you can name someone to make medical treatment decisions for you should you ever be unable to make them for yourself. To be certain that the person you name has the legal right to make those decisions, you must fill out a form called either a durable power of attorney for health care or a Patient Advocate Designation. The person named in the form to make or carry out your decisions about treatment is called a Patient Advocate. You have the right to give your Patient Advocate, your care givers and your family and friends written or spoken instructions about what medical treatment you want and don’t want to receive.

WHO CAN BE MY PATIENT ADVOCATE?

You can choose anyone to be your Patient Advocate as long as the person is at least 18 years old. You can pick a family member or a friend or any other person you trust, but you should make sure that person is willing to serve by signing an acceptance form. It’s a good idea to name a backup choice, too, just in case the person is unwilling or unable to act when the time comes.

WHERE CAN I GET A PATIENT ADVOCATE DESIGNATION FORM?

Many Michigan hospitals, health maintenance organizations, nursing homes, homes for the aged, hospices and home health care agencies make forms available to people free of charge. Many senior citizens’ groups and church and civic groups do, too. You can also get a free form from various members of the Michigan legislature. Many lawyers also prepare Patient Advocate Designations for their clients. The forms aren’t all alike. You should pick the one which suits your situation the best.

HOW DO I SIGN A PATIENT ADVOCATE DESIGNATION FORM SO THAT IT'S VALID?

All you have to do is fill in the name of the advocate and sign the form in front of two witnesses. But that's not as simple as it sounds, because under this law some people cannot be your witnesses. Your spouse, parents, grandchildren, children, and brothers or sisters, for example, cannot witness your signature. Neither can anyone else who could be your heir or who is named to receive something in your will, or who is an employee of a company that insures your life or health. Finally, the law disqualifies the person you name as your Patient Advocate, your doctors and all employees of the facility or agency providing health care to you from being a witness to your signature.

It is easier to make a Patient Advocate Designation before you become a patient or resident of a health care facility or agency. Friends or co-workers are often good people to ask to be witnesses, since they see you often and can, if necessary, swear that you acted voluntarily and were of sound mind when you made out the form.

DO I HAVE TO GIVE MY PATIENT ADVOCATE INSTRUCTIONS?

No. A Patient Advocate Designation can be used just to name your Patient Advocate, the person you want to make decisions for you. But written instructions are generally helpful to everybody involved. And, if you want your Patient Advocate to be able to refuse treatment and let you die, you have to say so specifically in the Patient Advocate Designation document itself. Any other instructions you have you can either write down or just tell your Patient Advocate. Either way, the Patient Advocate's job is to follow your instructions.

CAN I JUST GIVE INSTRUCTIONS AND NOT NAME A PATIENT ADVOCATE?

Yes, you can simply tell somebody, for example, your care giver or your family and close friends, what your wishes are. Better yet, you can write what is called a "Living Will," which is a written statement of your choices about medical treatment. Even though there is not yet a state Living Will law, courts and health care providers still find Living Wills valuable. Those taking care of you will pay more attention to what you have written about your choices; whether in a Patient Advocate Designation or a Living Will, because they can be more confident they know what you would have wanted. Most doctors, hospitals and other health care providers will also pay attention to what you've said to others, especially your family, about medical treatment. But again, it's better for everyone involved if you write your wishes down.

DO I HAVE TO MAKE A DECISION NOW ABOUT MY FUTURE MEDICAL TREATMENT?

No. You don't have to fill out a Patient Advocate Designation or a Living Will and you don't have to tell anybody your wishes about medical treatment. You will still get the medical treatment you choose now, while you are competent. If you become unable to make decisions, but you've made sure that your family and friends know what you would want, they will be able to follow your wishes. Without instructions from you, your family and friends and care givers may still be able to agree how to proceed. If they don't, however, a court may have to name a guardian to make decisions for you.

IF I MAKE DECISIONS NOW, CAN I CHANGE MY MIND LATER?

Yes. You can give new instructions in writing or orally. You can also change your mind about naming a Patient Advocate at all and cancel a Patient Advocate Designation at any time.

You should review your Patient Advocate Designation or Living Will at least once a year to make sure it still accurately states how you want to be treated and/or names the person you want to make decisions for you.

WHAT ELSE SHOULD I THINK ABOUT?

Treatment decisions are difficult. We encourage you to think about them in advance and discuss them with your family, friends, advisors and care givers. You can and should ask your facility or agency about their treatment policies and procedures to be sure you understand them and how they work.

If you want more information about a Patient Advocate Designation or Living Wills, or sample forms, please ask your care givers for assistance. Many facilities and agencies have staff available who can answer your questions. Additional materials may be available from your state representative or senator.