What's Next?

A lawyer can help you tailor an Advance Directive to meet your particular needs, especially if there are potential family conflicts or special concerns. A Financial Power of Attorney, Power of Attorney for Health Care or a Trust can be tailored for your needs. A lawyer who is familiar with "Estate planning" or "planning for incapacity" will be your best resource.

Source: American Bar Association Commission on Law and Aging, "Health and Financial Decisions"

If you cannot afford a private attorney, the following publicly funded programs are available in Nebraska:

Legal Aid of Nebraska ElderAccessLine® where an attorney can help you over the phone to execute the advance directives. Call toll-free 1-800-527-7249.

Automated online Power of Attorney and Living Will Forms are available at:

The Nebraska Power of Attorney forms are available on the Nebraska Supreme Court website at:
http://supremecourt.nebraska.gov/forms

Legal Services Providers are available through the area agency on aging near you. Visit the Nebraska Association of Area Agencies on Aging for contact information: www.nebaaa.org

For more information on Advance Directives, Guardianships and Conservatorships, refer to the Surrogate Decision Making In Nebraska publication: www.dhhs.ne.gov/aging

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**Health Care Power of Attorney**

1. Have you considered what care you would want for yourself in the event you are unable to express your wishes? Have you discussed your wishes with a family member, friend, minister, or anyone else?

   - Yes  
   - No

2. Have you made any plans to discuss the wishes with anyone and designate a POAH?

   - Yes  
   - No

3. Do you have a Power of Attorney for Health Care (POAH) or a document expressing your care wishes?

   - Yes  
   - No

4. You should give a copy of your POAH to your physician to be placed in your medical records and make sure your POAH agent has a copy.

5. Make yearly updates with any changes in your wishes.

The Surrogate Decision Making in Nebraska booklet is available at www.dhhs.ne.gov/aging

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**Advance Directives**

**The Why, When and How of Health and Financial Decisions**

July 2018

Nebraska Good Life. Great Mission. 

DEPT. OF HEALTH AND HUMAN SERVICES

A Project of the Nebraska Elder Rights Coalition
Department of Health and Human Services, Division of Medicaid and Long-Term Care, State Unit on Aging
Everyone, especially individuals 60 years and older should consider the following Facts, Myths, and Legal Planning Tools in preserving their personal autonomy.

Consider these Facts: 90% of people say that talking with their loved ones about end-of-life care is important. 27% have actually done so. Source: The Conversation Project National Survey (2015)

About 1 in 58 persons over age 65 suffers from Alzheimer’s disease or other forms of dementia. In the over-85 population, the number rises to nearly 50 percent. Source: Alzheimer’s Association, 2018 Alzheimer’s Disease Facts and Figures

Consider these Myths (by Charles Sabatino, American Bar Association, Commission on Law and Aging, Washington, D.C., Bifocal, Volume 37 Issue 1. Reprinted by permission of the American Bar Association. All rights reserved):

Myth #1: You must have a living will to stop treatment near the end of life. False. Treatment that is no longer helping can be stopped without a living will. Physicians will generally consult with your health care agent or close family when you cannot speak for yourself. Having an advance directive can make the right decision easier and help avoid family disputes.

Myth #2: You have to use your state’s statutory form for an advance directive to be valid. False. Most states do not require a particular form, but they do have witnessing requirements or other special signing formalities that should be followed.

Myth #3: Advance directives are legally binding, so doctors have to follow them. False. Advance directives are legally recognized documents and doctors must respect your known wishes, but doctors can always refuse to comply with your wishes if they have an objection of conscience or consider your wishes medically inappropriate. Then, they have an obligation to help transfer you to another health care provider who will comply.

Myth #4: An advance directive means “Do not treat.” False. No one should ever presume it simply means “Do not treat.” An advance directive can express both what you want and what you don’t want.

Myth #5: If I name a health care proxy, I give up the right to make my own decisions. False. Naming a health care agent proxy does not take away any of your authority. You always have the right, while you are still competent, to override the decision of your proxy or revoke the directive.

Myth #6: I should wait until I am sure about what I want before signing an advance directive. False. Most of us have some uncertainty or ambivalence about what we would want, and our goals of care change over time. It is too difficult for a young adult to be ready to contemplate end of life but that individual can think about and appoint a health care agent in case of serious accident or illness.

Myth #7: Just talking to my doctor and family about what I want is not legally effective. False. Meaningful discussion with your doctor and family is actually the most important step.

Myth #8: Once I sign my proxy, it becomes effective immediately. False. You have just started. Make sure your doctor understands and supports your wishes, and you understand your health state, future needs, and options. You and your proxy should always double-check to make sure your providers are aware of your directive and have a copy.

Myth #9: If I am living at home and my advance directive says I don’t want to be resuscitated, EMS will not resuscitate me if I go into cardiac arrest. Usually False. Your advance directive will usually not help in this situation. If someone calls 911, EMS must attempt to resuscitate you and transport you to a hospital. UNLESS you have an out-of-hospital Do-Not-Resuscitate (DNR) Order.

Myth #10: Advance directives are only for old people. False. It is true that more older, rather than younger, people use advance directives, but every adult needs one.

It is important to review your documents yearly or periodically to make sure they reflect any changes in your circumstances. Review your documents when any of the 5Ds occur:

1. You reach a new DECADE.
2. You experience a DEATH of family or friend.
3. You DIVORCE.
4. You receive a new DIAGNOSIS.
5. You have a significant DECLINE in your condition.