

# **Advance Directives in Iowa**

The following is intended to provide helpful information about the advance directives in Iowa. Please remember this information is general, and is not intended to be a substitute for the advice of a lawyer.

## **Does Iowa have laws on advance directives?**

YES, there are 2 laws relating to types of advance directives.

Advance directives are documents that enable a person to make decisions now about their medical care in the future and are to ensure the person's wishes are carried out. In Iowa, there are 2 forms of advance directives:

- a. Living Will (Declaration Relating to Use of Life-Sustaining Procedures) Iowa Code Chapter 144A.
- b. Durable Power of Attorney for Health Care Decisions Iowa Code Chapter 144B.

## **Are hospitals, residential facilities, and local providers required to honor an advance directive?**

YES.

Iowa Administrative Code 441-79.12 (249A) directs that living will or durable power of attorney for health care decisions be complied with by all hospitals, home health agencies, home health providers of waiver services, hospice programs, and health maintenance organizations (HMOs) participating in Medicaid. The key is to bring the advance directive to their attention and get the order placed in their medical or personal file.

In addition, the person may wish to consult his/her physician about an Out of Hospital Do Not Resuscitate Order (DNR). This can be written by the physician and is typically used when a patient is terminal. It is basically the living will but signed by a physician and directs a health care provider outside of the hospital to withhold resuscitation. (Iowa Code 144A.7A).

## **Are police personnel or sheriff required to honor an advance directive?**

Not likely in the event of an accident.

It is not guaranteed that a person's wishes with an advance directive will be carried out by police or local sheriff if involved in an accident. This is mainly due to the police not being aware of the advance directive at the time of administering aid. A wallet card may be carried with the person which can state the person has signed an advance directive and how to get in touch with the person's designated agent.

In addition, Iowa Code Chapter 144A.7A(6) regarding an Out of Hospital Do Not Resuscitate Order states that an out-of-hospital DNR order shall NOT apply when a patient is in need of emergency medical services due to a sudden accident or injury resulting from a motor vehicle collision, fire, mass casualty, or other cause of a sudden accident or injury which is outside the scope of the patient's terminal condition.

## **Where does one file an Advance Directive?**

The original living will must be given to the person's physician in order for his/her physician to act on it. Under Iowa law, it is the person's responsibility to provide his/her attending physician with the advance directive. A copy should also be given to any doctor (such as a family doctor) or for whom the person is under their care. It is also recommended to give the advance directive to family members, any other health care agent and even a pastor.

## **Should the Advance Directive be filed with the Clerk of Court in the county of residency?**

Advance directives are not filed with the county Clerk of Court. It is a medical directive and to be given to medical providers.

## **If under a civil mental health commitment, will the court honor the Advance Directive?**

There is no caselaw or code information that discusses issues with an advance directive if the person is under a civil mental health commitment. However, it would appear that if the person has the ability to communicate his/her wishes to the medical personnel under a commitment or has signed an advance directive and produced the document, the wishes of the person should be followed even in a mental health commitment setting. The point of a living will is for the withholding or withdrawing of life sustaining procedures in the event you are terminally ill and unable to participate in the decision making process. If the person is substantially mentally impaired and cannot make appropriate decisions for himself/herself and the person is deemed to have a condition that is terminal, the living will should take effect at that point (if the person can present the living will).

In the event no living will has been made, life sustaining procedures may be withheld or withdrawn from a patient who is terminally ill and who is comatose, incompetent, or otherwise physically or mentally incapable of communication IF there is consultation and written agreement between the attending physician and any of the following persons in the following order:

- Person designated as power of attorney
- Court appointed guardian (however, guardians must have court approval before making this decision)
- Spouse
- Adult child
- Parents
- Adult brother or sister

## **Is there any way to have the advance directive information added to an Iowa driver's license or ID?**

YES if the licensee requests.

Under Iowa Code 321.189 regarding the content of an Iowa driver's license, Section 4 states:

Upon the request of the licensee, the department shall indicate on the license the presence of a medical condition, that the licensee is a donor under the uniform anatomical gift Act or that the licensee has in effect a medical advance directive. For purposes of this subsection, a medical advance directive includes but is not limited to a valid durable power of attorney for health care decisions.

## **Who can assist someone with advance directives?**

It is highly recommended that a person interested in advance directives contact a private attorney for more information. For an attorney referral, please contact the Iowa State Bar Association – Attorney Referral Service at 1-800-532-1108.

