

ADVANCE MEDICAL DIRECTIVES

1. Patients with decision-making capacity have the legal and moral right to participate in their own medical care decisions, to include the right to refuse medical treatment at any time, even if it is life saving. However, under certain circumstances, active duty Soldiers may not refuse certain life threatening medical or surgical procedures. When an active duty Soldier refuses such treatment, the matter is referred to the Office of the Staff Judge Advocate for resolution. An advance directive (AD) is a written document defining a patient's wishes, should the patient become incapable of participating in medical decisions. These include a "Durable Power of Attorney for Health Care" and a "Living Will." State law governs the validity of these documents. Army Regulation 40-3, Medical, Dental and Veterinary Care, Chapter 2, provides policy for advance directives, do-not-resuscitate, and withhold/withdraw orders for patients. The medical treatment facility (MTF) commander provides operational guidance for implementation of advance directives.

2. MTF Responsibilities:

- a. The entire healthcare team will provide assistance with the formulation of advance directives and will help patients and their families participate in their healthcare decisions.
- b. The presence or absence of an advance directive and /or an opportunity for the patient to formulate an advance direct will be documented as part of the admission process.
- c. The physician and other health care providers primarily responsible for the ensuring that patients have adequate information on which to base decisions so that the patient's wishes are honored as far as possible.
- d. There may be instances when an advance directive is not in place and health care providers are responsible for obtaining a necessary healthcare decision from the appropriate parties. In accordance with Kentucky law (KRS 311.631), in the absence of an advance directive, or if the advance directive does not address a decision that must be made, any one of the following responsible parties in the following order of priority if no individual in a prior class is reasonably available, willing, and competent to act, shall be authorized to make health care decisions on behalf of the patient:
 - (1) The judicially-appointed guardian of the patient, if the guardian has been appointed and if medical decisions are within the scope of the guardianship;
 - (2) The attorney-in-fact named in a durable power of attorney, if the durable power of attorney specifically includes authority for health care decisions;
 - (3) The spouse of the patient;
 - (4) An adult child of the patient, or if the patient has more than one (1) child, the majority of the adult children who are reasonably available for consultation;
 - (5) The parents of the patient;

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(6) The nearest living relative of the patient, or if more than one (1) relative of the same relation is reasonably available for consultation, a majority of the nearest living relatives.

e. The Ireland Army Community Hospital (IACH) paralegal maintains blank Kentucky Living Will Packets and is available to notarize the same.

f. The Legal Assistance Office, Office of the Staff Judge Advocate, Fort Knox, is available for patient consultations and will assist with preparation of advanced medical directives from other states.

3. Patient's Rights and Responsibilities:

a. If you have an AD, you need to let your physician know about it. You also need to provide a copy of it to a hospital staff member as soon as possible.

b. An AD is voluntary in nature. You are not required to have one to be admitted or treated. Your physician will ensure that care is neither conditioned, nor the standard of care compromised based on the existence or nonexistence of an AD

c. An AD may be revoked or changed at any time. You may verbally inform your physician or nurse if you wish to change it.