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ADVANCED HEALTH CARE DIRECTIVES VS. DO NOT RESUSCITATE (DNR) ORDERS

[AS 13.52 and 7 ACC 16.010]

What is the difference between an “Advanced Health Care Directive,” “living will,” and/or DNR Order?

An “**ADVANCED HEALTH CARE DIRECTIVE**” is a document where you name a person to be your “agent” to make medical care decisions for you if you are not able to do so on your own. An “advance health care directive” is also known as: a “living will”; a “health care power of attorney;” and/or, a “durable power of attorney for health care.”

A health care directive is intended to express your specific intent for your health care and/or appoint an agent to make health care decisions for you when you cannot. As a general rule, if you are mentally competent and capable, a physician will always consult you first to determine your health care choices. But if you cannot make informed decisions due to incapacity from injury (e.g., a coma), age or mental infirmity, the physician will want your agent to make medical care decisions for you. A health care directive becomes effective only upon a determination that you lack capacity.

A health care directive is governed by Alaska Statute 13.52. For many years, physicians assumed one spouse could make medical decisions for the other, or a person appointed by a simple paper called a “living will” could make medical decisions on behalf of another. However, in today’s world of second marriages, blended families, unmarried couples, and lawsuits, the medical community pushed for a statute that provided a more formal directive defining who was authorized to make medical decisions, and to protect them from being sued if they followed the directions of the agent.

The Alaska “Advanced Health Care Directive” provides that an agent is to carry out your *known* health care goals/intent; and, if none are known, then the agent shall make health care decisions in your “best interest.” A health care directive may be very general or very specific as to what you do or do not want done [“you can do X, but not Y” or “if condition X occurs, then do Y”; etc . . .].

Generally, a health care directive must be in writing, must be given in advance, signed, dated, and must be either witnessed or notarized. A witness may not be the physician, employee of the physician, or the agent. At least one of the witnesses must not be: related by marriage, blood or adoption, or a beneficiary under your estate plan. A health care directive can be revoked at any time provided you have capacity to do so. The Alaska Department of Health and Social Services (DHSS) website provides additional information about Advance Health Care Directives, as well as a sample “Advance Health Care Directive.”

Because of the authority and power you are giving to your Agent, it is very important that the person you choose understands your current health care issues and long-term health care goals.¹ It is also normal to name an alternative if the first agent cannot act for some reason.

A **“Do Not Resuscitate” ORDER** is very different. A DNR order in Alaska is referred to as a “Comfort One” order or protocol. It is governed by AS 13.52.065 and 7 ACC 16.010.

A DNR or **“Comfort One”** order is a specific form signed by a tending physician that instructs first responders not to provide life saving methods to prolong life under certain circumstances. A Comfort One order is used only when a person is certified by the physician to have a “qualifying condition” (*i.e.*, a terminal illness). The Comfort One order may need to be renewed every six months.

As a general rule, all first responders (peace officers, paramedics) are required by law to start life saving techniques if the person is alive when they arrive.² A “Comfort One” order allows a health care provider to provide comfort care only, and no life support.

More information about Alaska’s “Comfort One” program can be found on the DHSS website.

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¹ Personally, my family knows what I want. If I have heart attack, then I hope they will keep me going. But if I have a terminal illness, then the decision might be different.

² A paramedic once stated that they have *never* had a person die in the ambulance; death will only occurs when they arrive at the hospital and a physician pronounces the patient dead..