

U.S. Department of Veterans Affairs Provides Advance Care Planning Services: Create a Plan Before You Think You Need One

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The VA hosts a National Advance Care Planning (ACP) program to help veterans plan for future health care needs. ACP is the process of planning for decisions about your future health care needs in case you are unable to communicate decisions yourself later down the line.³ Communicating your wishes to your loved ones and writing those wishes down can reduce stress during an unexpected health incident and ensure your wishes are honored. While ACP is often targeted towards aging or ill individuals, it can also be helpful if you lose decision-making capacity due to mental illness, an accident, or an acute medical condition. For that reason, it would benefit you to have an advanced care plan well before you think you need one.

What Does Advanced Care Planning Consist of?

In order for a trusted family member or friend to make health care decisions on your behalf, or even communicate your previously-made decisions, they should be officially designated as your Health Care Power of Attorney. The legal document needed to designate this individual is a

¹ Please see www.roa.org/lawcenter. You will find more than 2,000 “Law Review” articles about the Uniformed Services Employment and Reemployment Rights Act (USERRA), the Servicemembers Civil Relief Act (SCRA), the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), the Uniformed Services Former Spouses’ Protection Act (USFSPA), and other laws that are especially pertinent to those who serve our country in uniform. You will also find a detailed Subject Index, to facilitate finding articles about specific topics. The Reserve Officers Association, now doing business as the Reserve Organization of America (ROA), initiated this column in 1997, and add new articles each month. Capt. Samuel F. Wright is the author of more than 90% of the articles published so far, but we are always looking for “other than Sam” articles by other lawyers.

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³ U.S. DEP’T. OF VETERANS AFFAIRS, GERIATRICS AND EXTENDED CARE, ADVANCE CARE PLANNING – GROUP VISITS (2023).

type of advance directive called a “Durable Power of Attorney for Health Care”. This document is often combined with a “living will” in which you make your health care wishes known.

Two important things to know regarding this advance directive: 1) it will *only* be consulted if you are unable to make decisions on your own; 2) If you have not designated a health care power of attorney, the doctor will choose a spokesperson to make decisions for you, in the following order: legal guardian (if you have one), spouse, adult child, parent, sibling, grandparent, grandchild, or a close friend. If your doctor can't find anyone from this list, VA staff or a court will make decisions for you.

How to Create a Durable Power of Attorney for Health Care

In Person, Through the VA

The VA hosts ACP via Group Visits (ACP-GV), where veterans, their families, and caregivers engage in group discussions in order to determine what your future healthcare needs might be. In doing so, the group discussion lays the foundation for what is needed to complete the advance directive. These discussions include:

- Discussions about the types of health care treatments that may or may not be suitable for you
- Ideas for selecting the person you want to make decisions for you if you become unable
- Experiences about making health care decisions for someone else
- Goals and next steps⁴

You can contact your VA facility's ACP-GV Site Lead to find out when groups are offered, sign up for a group, and find more information. You can find your site lead contact here: https://www.socialwork.va.gov/ACP-GV_Site_Leads.asp.

Remotely, on Your Own

Alternatively, the VA provides a standard form Advance Directive/Durable Power of Attorney for Health Care and Living Will in VA Form 10-0137. You can actually fill this document out entirely on your own, with no need to contact a lawyer or notary. Do note that without being notarized, it is only guaranteed to be valid within the VA system; you may need to have it notarized to be legally binding outside of the VA health care setting.

That form can be found here: <https://www.va.gov/find-forms/about-form-10-0137/>.

The document itself is quite easy to fill out. There are clear instructions throughout the document that explain what each section is asking, and it provides examples of things to

⁴ *Id.*

consider as you work through the document. When you complete this document, you can include as much or as little detail as you want.

When you have completed your advance directive, give it to your VA health care provider so they can put it in your medical record. Also provide a copy to your health care agent and anyone else who might be involved in making a health care decision for you. The document won't do you any good if you find yourself in an emergency situation and nobody has a copy available.

Tips for Filling out Your Healthcare Power of Attorney and Living Will

- 1. Make sure you put your name on every page of the document** – VA Form 10-0137 provides space at the top of each page to put your name and date of birth. It is important that you do this on every single page. If you miss a page, the decisions you made that are written on that page might not be honored. If you need more space than what the form provides, you may attach extra pages, but be sure to initial and date every page you attach.
- 2. Consider geography when choosing your health care agent** – If you find yourself in a situation where your health care agent needs to be contacted, the doctors will call whoever you designate. However, consider whether you are okay with someone making decisions remotely in the case they aren't able to get to the hospital or medical center quickly.
- 3. Talk through the document with your health care agent** – It is important that your health care agent knows they are your agent. Communicate what your end of life goals are. Do you want to minimize pain and be comfortable? Do you want to preserve your mental function? Do you want longevity? **ALSO**, What are your goals for conditions like dementia or a stroke that aren't end stage? What are your goals if you're in a car accident that leaves you permanently physically disabled? This is particularly important, for example, if you have a large, opinionated family. If you know that there might be some internal family conflict should you get too sick to make decisions on your own, your agent should be prepared and empowered to step in and follow your instructions in this document.
- 4. Make sure your health care agent is comfortable making the decisions you have laid out** – Walk through your thought process of your living will. The more that your health care agent understands what you want, the better they will be able to communicate that to doctors and make decisions. If you decide that you don't want life-sustaining treatments in certain situations, make sure your health care agent would be able to actually make that decision.
- 5. Consider other preferences not contemplated on the form** -- Do you want your agent to be able to authorize, withhold or withdraw medical care and surgical procedures? To authorize your admission to or discharge from a medical, nursing, residential or similar facility and to make agreements for care and health insurance for care, including hospice and/or palliative care? To hire and fire medical, social service and other support personnel responsible for your care? To request that a physician responsible for your care issue a do-not-resuscitate (DNR) order, including an out-of-hospital DNR order, and sign any required documents and consents? To authorize or refuse to authorize donation of what we traditionally think of as organs (for example, heart, lung, liver, kidney), tissue, eyes or other parts of the body? These are just some questions to think through and consider including in your living will.

Conclusion

Filling out these documents, especially when you're healthy and don't think you will need them anytime soon, might be scary. As humans, it's often uncomfortable to realistically consider our morbidity and ask ourselves these questions. But please, take it from me, as someone who was faced with making healthcare decisions for a loved one with an abrupt and unexpected medical condition – you don't want your family members to have to make those decisions. Create a plan now. While you're at it, also make sure you have a valid will.⁵ All of these documents will help your loved ones get through what will undoubtedly be a difficult time.

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ROA is more than a century old—it was established on 10/1/1922 by a group of veterans of "The Great War," as World War I was then known. One of those veterans was Captain Harry S. Truman. As President, in 1950, he signed our congressional charter. Under that charter, our mission is to advocate for the implementation of policies that provide for adequate national security. For more than a century, we have argued that the Reserve Components, including the National Guard, are a cost-effective way to meet our nation's national defense needs.

Through these articles, and by other means, including amicus curiae ("friend of the court") briefs that we file in the Supreme Court and other courts, we educate service members, military spouses, attorneys, judges, employers, ESGR volunteers, DOL investigators, congressional and state legislative staffers, and others about the legal rights of service members and about how to exercise and enforce those rights. We provide information to service members, without regard to their membership status, or lack thereof, in our organization, but please understand that ROA members, through their dues and contributions, pay the cost of providing this service and all the other great services that ROA provides.

If you are now serving or have ever served in any of our country's eight uniformed services,⁶ you are eligible for membership in ROA, and a one-year membership only costs \$20 or \$450 for a life membership.⁷ Enlisted personnel as well as officers are eligible for full membership, and eligibility applies to persons who are serving or have served in the Active Component of the armed forces, as well as the National Guard and Reserve.

⁵ The VA makes financial planning and online will preparation services available at no cost to beneficiaries of: SGLI (Servicemembers' Group Life Insurance), TSGLI (Traumatic Injury Protection), FSGLI (Family Servicemembers' Group Life Insurance), and VGLI (Veterans' Group Life Insurance). If you don't qualify under one of these plans, contact a local attorney.

⁶ Congress recently created the United States Space Force as the 8th uniformed service.

⁷ If you are under the age of 35, you can become an associate member for free for five years or when you turn 35, whichever comes first.

If you are eligible, please join. You can join on-line at www.roa.org or call ROA at 800-809-9448. If you are not eligible, please contribute to help us continue our vital work. You can send us a contribution at:

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1 Constitution Avenue NE
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⁸ You can also contribute on-line at www.roa.org.