



Advance Health Care Planning in Kansas

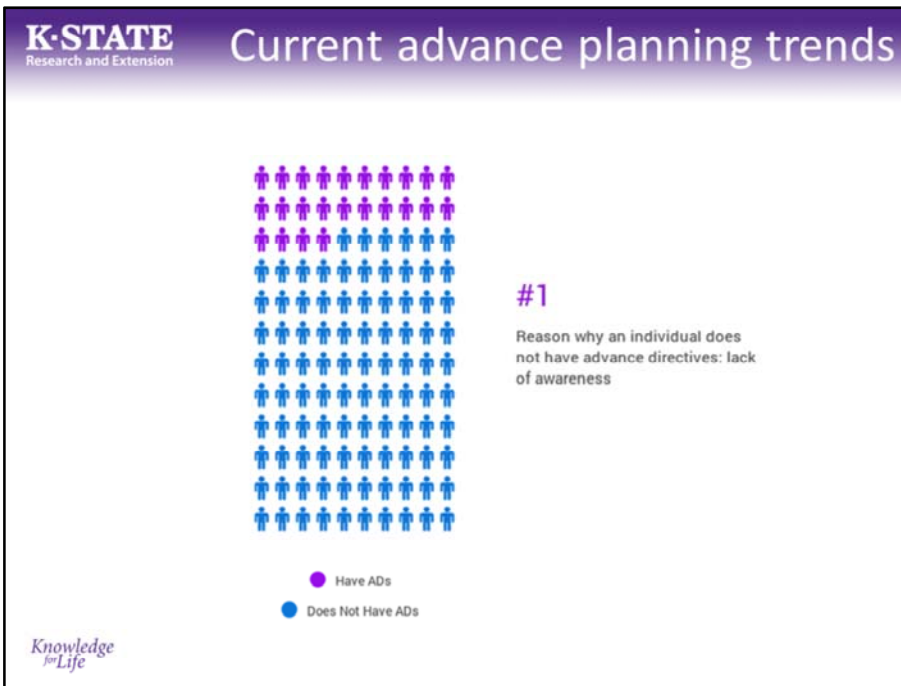
If they would have had an advance directive...

I think one of the most powerful ways to begin talking about Advance Health Care Planning is by sharing stories of those who didn't plan. And I have *one story/two stories* to share with you:

1. *Share your own personal story about someone you know, or someone you've read about.*

2. A young, 26 year-old woman from St. Petersburg, Florida suffered cardiac arrest in 1990. She was resuscitated, but had massive brain damage due to lack of oxygen to her brain and was left comatose. After months of no improvement, she was diagnosed as living in a persistent vegetative state. This story might sound familiar to you – this is the case of Terri Schiavo. Terri's case was the first that brought national attention to the power of Advance Health Care Planning. Terri did not have advance planning documents in place and her husband and parents fought relentlessly over her right to die for 15 years. Her husband argued that she wouldn't have wanted her life to be artificially prolonged, whereas her parents wanted to keep her alive. If Terri had completed her Advance Health Care Planning documents, the intense legal and court battles that persisted for those 15 years while she lie comatose likely would have never happened.

It is cases such as these that highlight the need for all adults to complete their advance health care plans *before* a crisis occurs. As Terri's case showed us, a health care crisis can occur at any age.



After hearing about the importance of advance health care planning, I'm sure most of us can agree that it is necessary and is something that we shouldn't put off until later. But, sadly, many people do. Less than ¼ of US adults have an advance directive in place, as you can see in this graphic. The number one reason why individuals don't have them in place is simply a lack of awareness – so you are taking the first step to completing your advance directives just by being here today.

Advance directives are legal documents that allow you to voice your wishes regarding future medical care/treatment in the event that you become unable to do so for yourself.

So, what are advance directives? Advance Directives are the legal forms that you complete when you engage in Advance Health Care Planning. These are legal documents that allow you to voice your wishes regarding future medical care and treatment in the event that you become unable to do so for yourself.

- You have the right to be informed and decide, as long as you are capable of doing so
- So what happens if you become unable...?
- Give the gift of making your wishes known

So, why do we need to complete our advance directives? Of course we all want to avoid being in a situation like that of Terri Schiavo (*or that of the personal example you shared*). But, we also should consider some other items:

1. As competent adults, we all hold the right to make our own decisions if something were to happen to us right now – that is our legal right. But, if something were to happen to you right now, and you could not speak for yourself, who are you going to give that right to? We also hold the legal right to make our own future decisions, and we can do that through advance health care planning.
2. Imagine for a moment that someone in your immediate family suffered a fatal medical crisis tomorrow – would you know what their wishes are regarding their health care? Do you know if they want their organs donated? Do they want to be cremated, buried, or something else? What about you? Do your family members know the answers to these questions about you? Through advance health care planning, you can voice these wishes. And doing so is oftentimes considered a gift by your family members and loved ones who are tasked with your medical decision making. Do this as a gift to not only yourself, but also your family members.

DURABLE POWER OF ATTORNEY FOR HEALTHCARE

Today, we will specifically discuss FOUR types of advance health care planning documents:

1. Durable Power of Attorney for Healthcare
2. HIPAA Authorization
3. Living Will
4. Pre-Hospital Do-Not-Resuscitate Directive or DNR

To begin, let's start by discussing the Durable Power of Attorney for Health Care.

- Appoint an “agent” to speak on your behalf
- The agent:
 - Will speak for you only if you become incapacitated due to illness or injury
 - Can make treatment decisions (how/who), medical facilities, organ donation, autopsy, and what to do with your body after death
 - Cannot revoke wishes from a living will

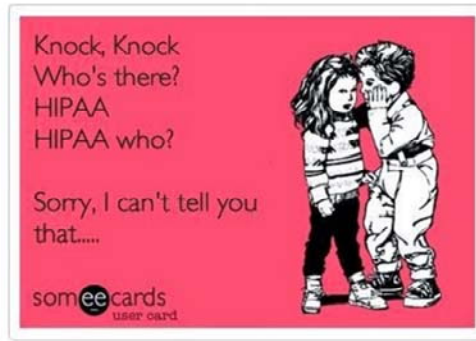
A Durable Power of Attorney for health care is legal document in which you appoint someone to speak for you on your behalf. In Kansas, this person is called your “agent”. You might have also heard them called a “health care agent”, “proxy”, or “health care proxy”.

This individual, that you have appointed, can only speak for you if you were to become incapacitated due to illness or injury. If something happened to you right now and you were still able to verbally speak for yourself, your agent would have NO say over your medical care.

So, what kinds of decisions can your agent make for you? They can decide what treatment you will receive, in addition to where and who is treating you. For example, if you had a serious accident in a rural western Kansas town, your health care agent can specify that they would like you to be sent to Kansas City for more specialized treatment and care. Your agent can also make decisions regarding organ donation, whether there should be an autopsy on your body (though this can be overridden if legally required for a suspicious death), and what to do with your body after death. They can say if you preferred to be buried and where, or if you’d like to be cremated and what should be done with your ashes.

It is important to note that your durable power of attorney for health care CANNOT revoke any additional wishes you have put in writing – these are generally stored in your living will, and we will talk about that in a few minutes. So, if you noted, in writing, that you did not want to be put on a ventilator, your agent cannot decide to put you on a ventilator against your written wishes, for example.

- Access to medical records
- HIPAA Privacy Authorization Form



In addition to the items mentioned in the previous slides, it is also important to note that your durable power of attorney for health care will also have access to your medical records. This can allow them to have full and complete insight into your medical condition and help them to make informed decisions regarding your care.

There is another form that should be completed to ensure your durable power of attorney for health care will have direct, uninhibited access to your medical records, though. This is called the HIPAA Privacy Authorization Form. Has everyone heard of HIPAA? HIPAA stands for the Health Insurance Portability and Accountability Act and its privacy rule establishes national standards to protect patient's medical information. You can complete the HIPAA Privacy Authorization form and give anyone access to your medical records. Since a Durable Power of Attorney for Health Care is only effective after you have lost your capacity to make or communicate decisions, the Power of Attorney does not authorize release of medical information to the person named while you remain competent. If you want some person other than yourself to have access to that information now, while you remain competent, you need to complete and sign a HIPAA Privacy Authorization Form, regardless of whether or not you also have a Durable Power of Attorney for Health Care in place.

You can also give access to your medical records to people other than your Durable Power of Attorney. For instance, if you name your first-born child as your durable power of attorney for health care, but you would like your other children to be able to make an informed opinion regarding your health so that they can voice their opinion to their sibling, you can do so. Parents of multiple children might follow this strategy.

I always like to include this cartoon regarding HIPAA – it reads: “Knock, Knock. Who’s there? HIPAA. HIPAA who? Sorry, I can’t tell you that....” This highlights exactly what HIPAA is about – privacy. So, if you want someone to have access to your medical records, you have to make that known in writing through the HIPAA Privacy Authorization Form.

- Kansas requirements:
 - At least 18 years old
 - Competent
 - Limitations
 - Treating health care provider
 - Employees/Owners/Directors of your treating health care provider unless that person is related to you by blood, marriage, or adoption or you have taken vows in the same religious community

This slide details who you can legally appoint as your Durable Power of Attorney for Health Care. This individual must be at least 18 years old and be cognitively competent. This person CANNOT be your treating health care provider – so your primary care physician cannot make treatment or end-of-life decisions on your behalf. This person can also NOT be employees, owners, or directors of your treating health care provider unless that person is related to you by blood, marriage, or adoption or you have taken vows in the same religious community. For example, if your sister is the CEO of your hospital, she can be your Durable Power of Attorney for Health Care. But if your neighbor and best friend is the CEO of your hospital, that person CANNOT be named your Durable Power of Attorney for Health Care.

This limitation is in place to prevent conflict of interest.

Your agent should be someone:

- You trust
- Who knows you well
- Who will advocate for you
- Who will honor your wishes



So, now that you know the legal requirements for who you can appoint – who should you appoint? Your agent should be someone:

- You trust
- Who knows you well
- Who will advocate for you
- Who will honor your wishes

Remember that your wishes might be different than those of your agent – so you need to make sure that they would be comfortable carrying out your wishes even if it's something that they wouldn't want for themselves.

I want you to take a second and ask yourself, who would you appoint as your Durable Power of Attorney for Health Care? You don't have to share your response – just take a moment to think about it.

How many people knew right away? How many still aren't sure? This is a tough decision and takes a lot of thought. It's okay if you have to think and list the pros and cons – this is a big decision!

- Fill-in-the-blank form
- Must be:
 - Signed and dated
 - Notarized
- OR**
- Signed by two witnesses
 - At least 18 years of age
 - Can NOT be related to you by blood, marriage, or adoption
 - Can NOT be entitled to your estate
 - Can NOT have direct financial responsibility for your health care



So, now that you know what a Durable Power of Attorney for Health Care is – how can you appoint someone? Kansas makes it easy and offers a fill-in-the-blank form (*if you have the MF3280 – Advance Health Care Planning in Kansas – publication handy, please refer to it*).

You simply fill out your name and contact information and get the form signed by a notary or two witnesses. If you choose two witnesses, there are some limitations in place to protect you. Those individuals must be 18, and CANNOT be related to you, entitled to your estate, or have direct financial responsibility for your health care.

- **Durable Power of Attorney for Health Care**
 - Appoint an agent to make medical decisions for you if you were to become incapacitated
- **Durable/Non-Durable Financial Powers of Attorney**
 - Complex legal documents that allow you to appoint an individual to make financial decisions on your behalf

With all of the legal jargon floating around regarding advance planning, I wanted to give you a little insight as to the various Powers of Attorney and the difference between them.

A Durable Power of Attorney for Health Care is the document we just discussed – where you name someone to make medical decisions on your behalf should you become unable to do so.

The Durable Financial Power of Attorney and Financial Power of Attorney are legal documents that allow you to appoint someone to make financial decision on your behalf. These are complex legal documents that must be completed with the help of an attorney. *(Note: More information on these documents and the difference between them is available in the Advance Health Care Planning in Kansas publication.)*

LIVING WILL

The next document we'll be talking about today is the living will.

- An instruction list to your physician, family, and friends that outlines what type of life-sustaining procedures you want at the end of your life
- Essentially a request to die naturally utilizing only comfort measures



Knowledge
for Life

A living will is an instruction list to your physician, family, and friends about the preferences you have regarding life-sustaining or end-of-life care.

Kansas also offers a fill-in-the-blank version of this form, which is essentially a request to die naturally. Medical professionals can only utilize comfort care measures – such as pain relief – if you utilize this form.

- “...I direct that such procedures be withheld or withdrawn, and that I be permitted to die naturally with only the administration of medication or the performance of any medical procedure deemed necessary to provide me with comfort care”

Specifically, the form says this: “...I direct that such procedures be withheld or withdrawn, and that I be permitted to die naturally with only the administration of medication or the performance of any medical procedure deemed necessary to provide me with comfort care”.

If you would like to add specific requests regarding things like mechanical ventilation, tube feeding, dialysis, or antibiotics, you need to utilize the services of an attorney.

- Becomes effective only when you've been diagnosed, in writing, to have a terminal condition by two physicians
- Limitation:
 - Pregnancy



A living will is different from a durable power of attorney in that it will become effective when you've been diagnosed as "terminal" by two physicians. Terminal simply means that you are dying.

There is one limitation to living wills. They will NOT be honored if you are pregnant. This is generally because even if a mother is terminal, there may be ways that medical professionals can save the life of her unborn child through the utilization of life-sustaining procedures.

- Fill-in-the-blank form
 - Must be:
 - Signed and dated
 - Notarized
- OR**
- Signed by two witnesses
 - At least 18 years of age
 - Can NOT be related to you by blood, marriage, or adoption
 - Can NOT be entitled to your estate
 - Can NOT have direct financial responsibility for your health care



So, now that you know what a Living Will is – how can you appoint someone? This is the same process as the one for a Durable Power of Attorney for Health Care. Kansas makes it easy and offers a fill-in-the-blank form (*if you have the MF3280 – Advance Health Care Planning in Kansas – publication handy, please refer to it*).

You simply fill out your name and contact information and get the form signed by a notary or two witnesses. If you choose two witnesses, there are some limitations in place to protect you. Those individuals must be 18, and CANNOT be related to you, entitled to your estate, or have direct financial responsibility for your health care. These are the same limitations put in place by the Durable Power of Attorney for Health Care document.

- **Living Will**
 - Medical and health care wishes
- **Wills & Living Trusts**
 - Complex legal documents that address how your property and assets will be transferred after your death

Just like with advance directives, there is a lot of legal jargon with wills. So, I'd like to provide a little clarification on the difference between the terms. If you see the term "living will", that means that the form is for medical decisions. Any time you hear the terms "will", "trust", or "living trust" – those are all referring to legal documents dealing with one's financial affairs. Specifically, these forms address how your property and assets will be transferred or distributed after your death.

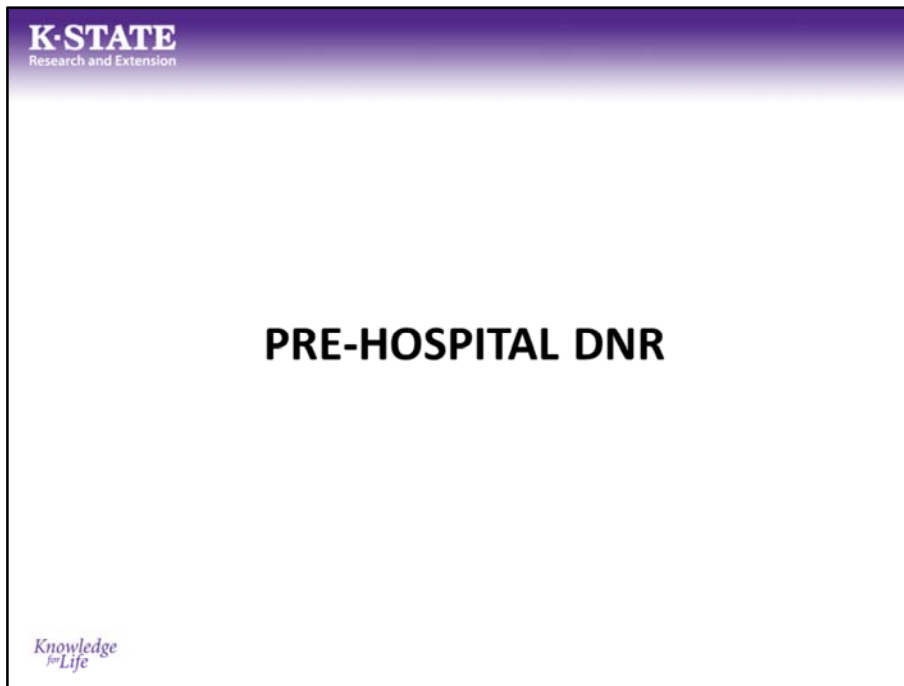


To wrap up this section, I'd like to share a Dilbert cartoon.

Dogbert says "here's the first draft of an advance health care directive I wrote for you." It reads, "kill me if I have a headache. Kill me if I'm itchy. Kill me if I complain too much."

Dilbert says: "I might have some edits", to which Dogbert replies, "There's your complaining again!"

So the moral of the story – don't let your dog write your advance directives for you. 😊



The last document we're going to talk about is a pre-hospital DNR.

Before we begin talking, I just want to preface this conversation by saying that, most likely, none of us in this room need a pre-hospital DNR right now. DNRs are serious documents and should only be completed if absolutely necessary.

- Written communication of your desire to not have resuscitation *attempted* should you stop breathing or your heart stops beating
- Typically only terminally ill or incredibly frail elderly have a DNR

A pre-hospital DNR states that you do not want to have resuscitation attempted, should you stop breathing or your heart stops beating. Note that this says “attempted”, as successful resuscitation cannot always be guaranteed.

So, this means that, if you were to have a medical emergency and an ambulance came, they could NOT perform CPR on you in an attempt to revive you.

Again, this document is not for everyone and is generally only recommended for terminally ill or incredibly frail individuals.

- Fill-in-the-blank form
- Signed by:
 - You
 - Your physician
 - 1 Witness
 - At least 18 years old
 - May NOT be related to you by blood, marriage, or adoption
 - Can NOT be entitled to your estate
 - Can NOT have direct financial responsibility for your health care



Kansas offers a fill-in-the-blank form for the pre-hospital DNR as well. This form is similar to the others in that you have to sign it, and it has to be witnessed. However, for your safety, this form requires permission and a signature from your physician.

You can also see that the same limitations for a witness apply. They must be 18 and cannot be related to you, entitled to your estate, or have direct financial responsibility for your health care.

FINAL THOUGHTS

So, now that we've learned about the various advance planning forms available in Kansas, I want to share some final, important thoughts with you. These thoughts are adequately summed up with the following cartoon:

How to sign up:

- Register online: donatelifekansas.com/join
- Say “yes” at the DMV
- Call 1-888-744-4531 to request a form

If you would like to become a registered organ donor in Kansas, you can easily do so.

You can easily register online at www.donatelifekansas.com/join. You can also request to be a donor at the DMV the next time you renew your drivers license. They will typically ask you if you want to be an organ donor, but if not, be sure to ask how to sign up. You can also call 1-888-744-4531 to request a sign-up form to be mailed to you.

THEY WERE SAD WHEN THEY
FOUND OUT THEIR WEALTHY GRANDFATHER
HAD DIED IN AN EARTHQUAKE.

THEY WERE DEVASTATED WHEN THEY
DISCOVERED HE HAD WRITTEN HIS
WILL ON AN ETCH A SKETCH.



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Search ID: gra070208

“They were sad when they found out their wealthy grandfather had died in an earthquake. They were DEVASTATED when they discovered he had written his will on an etch a sketch.”

So, the moral of the story here is that if you don't properly store your documents, they are useless!

- House
- Vehicle
- Any place that you frequently visit for long periods of time
- Family / close friends
- Physician / hospital
- Health care agent



It is crucial that you store your documents in accessible places. Always keep a copy in your house – a great place is to store it on your refrigerator. (*Note: If your county offers Operation Red File, please talk about the initiative here.*) Think about where your documents could be stored that would be visible and accessible.

***Brainstorm with your participants – where could they keep their documents where emergency responders or family members would know to look? Generally the refrigerator is a good bet, but there might be other good ideas to share here as well. ***

You also need to store a copy in your vehicle, such as in the glove box.

Also keep in mind any place that you visit for long periods of time. For example, if you frequently visit your children on the other side of Kansas, make sure that they have a copy on hand as well. You never know when and where an accident might happen.

It is also wise to give copies to family and close friends. Think about who would come to the hospital if something were to happen to you. Those people should, likely, all have a copy of your documents.

Be sure to give copies of all of your forms to your doctor and your hospital. Your doctor's office and hospital will generally take the copy, scan it, and store it with your electronic medical records. If your doctor or hospital still uses paper records, they will keep a copy with your file.

Also be sure to give a copy to your health care agent – the person you can appoint with your Durable Power of Attorney for Health Care Document. The person who will be in charge of your decision making will obviously need an accessible copy to these documents.

Finally, DO NOT store your advance planning documents in safe deposit boxes at your local bank. If something were to happen to you, who could get into this box?

Most likely the answer is either “no one” or “my spouse”. If no one can get to it, the form is useless. Also, the last thing your spouse needs to do during a medical crisis is run to the bank – so just don’t put it there!

Making sure that your forms are accessible, and that people know the documents exist, are the most important parts of planning.

I HAVE A DURABLE POWER OF ATTORNEY FOR HEALTH CARE	A copy of my document can be found in these places:	
My Name:		
My Health Care Agent:		
My Agent's Phone #:	Other copies of my document are held by:	
My Doctor:	Name:	Phone:
My Doctor's Phone #:	Name:	Phone:

My final tip regarding storage of your documents is to make it known where your documents are stored. Wallet cards are a great way to do this. Simply fill out the information you see on this screen – your name, health care agent, doctor, and where your documents are stored – and laminate the sheet to keep in your wallet. Your wallet will be the first place most first responders will look to find out information about you.

If you have the MF3280 – Advance Health Care Planning in Kansas – publication, please refer to the wallet cards in the back. They will fold and laminate to be exactly the same size as a credit card.



Before I take any questions, I just want to remind you to keep calm and complete your advance directives! 😊

Questions?