



# SUPPORTED DECISION MAKING AND TRANSITION TOOLKIT

*Healthcare Section*

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# Supported Decision Making and Transition Toolkit

- **A practical guide for the transition to adulthood for people with disabilities and their support systems**

## **What is the purpose of this toolkit?**

This toolkit provides information, resources, and templates to help individuals with disabilities plan for the future. The toolkit will help people with disabilities to gain independence and make decisions in adulthood. This guide was written and put together by attorneys and advocates at Disability Rights Ohio, Ohio's designated Protection & Advocacy system for people with disabilities. This guide does not provide legal advice. This guide is a tool to assist with decision-making. Should you need this guide in a different format, please contact DRO Communications at [communications@disabilityrightsohio.org](mailto:communications@disabilityrightsohio.org).

This guide is designed to help individuals with disabilities explore options for assistance with decision making, including supported decision making, powers of attorney, and options other than guardianship that are less restrictive. These tools can also help those with a guardian make decisions alongside their guardian.

## **Who can use this toolkit?**

This toolkit is for individuals with disabilities, as well as their support people, including family, friends, caregivers, and people who assist them with supported decision making.

## **What is Supported Decision Making?**

**Supported decision making** lets people choose someone to help them make important decisions about their lives. Everyone needs support to make important decisions about their work, school, money, and more. Supported decision making lets people select friends, family, or others to help them with making decisions while practicing self-determination and independence.

## What is Guardianship?

**Guardianship** is the legal role given to an individual to manage the personal activities of another person. This happens when the court has decided that someone, called a **ward**, cannot make their own decisions. The court appoints a guardian to assist the ward with making decisions. Guardians may make decisions about the ward's health care, where they live, how their money is spent, and other personal choices. The guardian should consider the wants and wishes and of the ward. The court can end a guardianship if the ward is re-evaluated, and the court determines that the ward can make their own decisions. Sometimes this is called "becoming your own guardian."

Guardianship is not appropriate for everyone. The need for a guardianship is specific to each individual situation and each potential ward. However, wards, or people with guardians, can use the tools in this kit to make decisions about their lives and work with their guardian to implement their decisions.

This toolkit also provides examples of alternatives to guardianship, including supported decision making, powers of attorney, and others.

We hope that this toolkit makes you feel confident in speaking up for what you want in your life.

For more information you can contact Disability Rights Ohio at 614-466-7264

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# Healthcare

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## Words to Know:

- **Advance directive** - A written plan of what choices you want to make for your health and who will help you if you're unable to say
  - **Durable Power of Attorney** - A legal document that names a trusted adult to make health care decisions for you
  - **Proxy** - A person who you choose to make decisions for you
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There are many ways to keep your right to make decisions about your own health. Decisions about your own health can include what doctor you want to see, what medications or treatments you decide to use, what to do when you are sick or hurt, and so on.

**Advance directives** can help you explain what kinds of health care decisions you can make if you cannot communicate those choices on your own. For example, an advance directive can speak for you if you cannot speak. This could be due to illness, injury, or other situations. These documents are shared with your doctors and others. This section will explain the types of advance directives, the differences between them, and why they may be helpful.

# Advance Directives

Advance directives are legal documents that explain what kinds of health care decisions you can make if you cannot communicate those choices on your own in the future. For example, an advance directive can speak for you if you cannot speak. This could be due to illness, injury, or other circumstances. These documents are shared with your doctors and others. You can create these documents when you are at least 18 years old.

There are three types of advance directives. The following table will explain the three types of advance directives and the differences between them.

## Three Advance Directives in Ohio

### Durable Power of Attorney

- ❖ **What is it?** A legal document you use to give permission to another person (agent) to make health care decisions when you cannot make them on your own. You can use this for both medical health care and mental health care.
- ❖ **Will this be used if I can make my own decisions?** No, it is only used when you are no longer able to make your own decisions.
- ❖ **Can I change or cancel it?** Yes, you can change or cancel it at any time. It is good to look at it to make sure what it says is still what you want.
- ❖ **What if I have more than one, or all three? (You can have all three)** This will be used when something unexpected happens, so the person you choose (agent) can make a decision they think you would want. This will not be used instead of your living will, if you have one.
- ❖ **Example:** You could use this to give someone (agent) the ability to choose a treatment you receive while you are in a coma.

### Declaration for Mental Health Treatment

- ❖ **What is it?** A legal document you use to give someone (agent) permission to make mental health care decisions, including treatments you do or do not want, when you are not able to make the decisions yourself.
- ❖ **Will this be used if I can make my own decisions?** No, it is only used when you are no longer able to make your own decisions.
- ❖ **Can I change or cancel it?** Yes, you can change or cancel it at any time, unless you are unable to make your own decisions because of mental illness. It is good to look at it to make sure what it says is still what you want.
- ❖ **What if I have more than one, or all three? (You can have all three)** Your doctor will use this instead of any mental health choices in your Durable Power of Attorney for Health Care.
- ❖ **Example:** You could use this to say what kind of medication you do not want to be given to you if you are having mental health problems and you cannot make your own decisions.

## Three Advance Directives in Ohio

### Living Will

- ❖ **What is it?** A legal document you use to let people know if you do not want medical staff to use life support methods to lengthen your life if you cannot make your own medical decisions and you have an illness or condition that will lead to death (terminal condition) or you are permanently unconscious (unaware).
- ❖ **Will this be used if I can make my own decisions?** No, it is only used when you are no longer able to make your own decisions, and two doctors say that you are in a terminal condition or permanently unconscious.
- ❖ **Can I change or cancel it?** Yes, you can change or cancel it at any time. It is good to look at it to make sure what it says is still what you want.
- ❖ **What if I have more than one, or all three? (You can have all three)** This will be used if you choose to not have certain life sustaining measures when you are in a terminal condition or permanently unconscious. If you are in a terminal condition or permanently unconscious, this document will be used even if you have a Durable Power of Attorney for Health Care.
- ❖ **Example:** You could use this to let medical staff know that you do not want them to give you CPR if your heart stops beating.

# Durable Power of Attorney for Health Care

## Introduction

A durable power of attorney for health care, called a “health care POA” for short, is a legal document that names a trusted adult to make health care decisions for you if a doctor says you have lost the ability to make informed health care decisions for yourself. The POA is called “durable” because it remains in effect even if you’ve lost the ability to make decisions for yourself.

## What does a health care POA do?

- A health care POA puts into writing who you trust to make your health care decisions if you ever lose the ability to make those decisions yourself.
- A health care POA can also put into writing what you want to happen if you lose the ability to make health care decisions yourself, such as whether you want to be connected to a feeding tube or not, or whether you want to donate your organs or not.

## Naming an agent

The person you name to make decisions for you is called your “agent.” You can name anyone to be your agent, as long as they are over 18 and are not your doctor or other health care provider. You should make sure your agent is someone you trust such as a friend or a family member.

## Practical tips

- You should keep a copy of your original, signed health care POA in a safe space.
- You must give a copy of your POA to your health care provider for them to honor it
- If you ever want to revoke a health care POA, you can

# Declaration for Mental Health Treatment

## Introduction

A mental health declaration is a written statement that can help you to tell your family and doctors specifically what you want for your mental health treatment in the future.

### Why is this important?

- A Mental Health Declaration puts into writing your own plan for how you want your treatment to go if you need mental health treatment in the future and are unable to make your own decisions at that time.
- In the future, if you are having a crisis, like a panic attack or mental health episode, and want treatment but are not able to clearly say what you want, a written statement by you of what kinds of mental health care you want or *don't want* will help family and doctors understand how you wish to be treated.

### Naming a Proxy

- A “**proxy**” is the person you appoint to make sure your decisions are being respected. They will advocate for your written choices and make other decisions in your best interest in the areas you have not written down in your Mental Health plan.
- You can name anyone over 18 that you trust to be your proxy, except your mental health therapist or your doctors.

### Information in the Mental Health Declaration

- You may have very specific things you want or *don't want* to happen if you are having a significant mental health crisis, and these can be written out in your declaration. These should be honored by any professionals that are treating you.
- You are able to say when and how the declaration is to be used for you.
- You can specifically write out the duties and rights you are giving to your proxy person if you cannot make those decisions for yourself.

- Having a Mental Health Declaration makes sure the person you have chosen as proxy will not be ignored by doctors treating you. The proxy person will be able to help you with your mental health choices even if you also have a health care durable power of attorney to make general health care decisions for you.
- **Important Reminder-** If you have signed a mental health declaration, and you later lose your ability to make informed decisions about your mental health treatment, you will not be able to change the mental health declaration until you regain your capacity (ability to understand) to make decisions for yourself.

Below, you will find the template mental health declaration form you may use to create your own mental health declaration.

## Health Care Resources

- Ohio Health Care POA form: [https://www.disabilityrightsohio.org/assets/documents/olrs\\_poa.pdf?pdf=Durable\\_Power\\_of\\_Attorney\\_for\\_Healthcare](https://www.disabilityrightsohio.org/assets/documents/olrs_poa.pdf?pdf=Durable_Power_of_Attorney_for_Healthcare)
- <https://bit.ly/4tVv3z6>