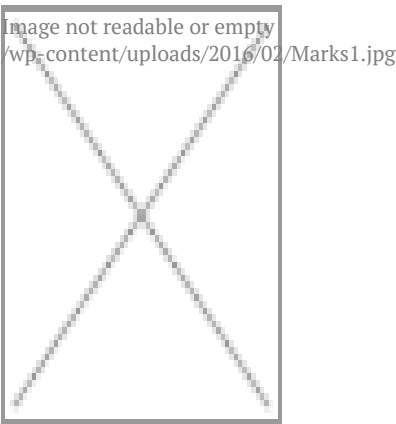


# What Every Georgian Should Know About Advance Medical Directives



By **Melanie L. Marks, Bouhan Falligant**

Special to *Savannah Morning News*

According to a 2014 study published in *The American Journal of Preventive Medicine*, nearly three-quarters of survey respondents did not have an advance medical directive, the generic term for any document that gives instructions about your health care and appoints someone to make medical treatment decisions for you if you cannot make them for yourself. The majority of those without such plans cite lack of awareness as the most common reason for not having an advance medical directive.

So, what do you need to know?

The Georgia Advance Directive for Health Care has three primary parts. The first section allows you to choose a health care agent, someone to make healthcare decisions for you when you cannot (or do not want to) make healthcare decisions for yourself. The second section of the advance medical directive [§ 37-1-10](#) which will only become effective if you are unable to communicate your wishes [§ 37-1-11](#) outlines your treatment preferences if you have a terminal condition or are in a state of permanent unconsciousness. And finally, the third section allows you to nominate a person to be your guardian should one ever be needed.

Many people are reluctant to execute an advance medical directive, and there are a number of myths that need to be

dispelled about health care directives. These include:

**MYTH:** You must have an advance medical directive to stop treatment near the end of life.

**FACT:** Treatment can be stopped without an advance medical directive, but only if everyone involved agrees. Without such a plan in place, decisions may be more difficult and dispute more likely.

**MYTH:** An advance medical directive means “do not treat.”

**FACT:** The advance medical directive can express what treatments you want and do not want. Even if you do not want treatment, you can be kept reasonably pain free and comfortable.

**MYTH:** If I name a health care agent, I lose the right to make my own decisions.

**FACT:** Naming a health care agent does not take away any of your authority. While competent, you always have the right to override the decision of your proxy or revoke the directive. Not naming a health care agent increases the likelihood of needing a court-appointed guardian, who may or may not be someone you trust.

**MYTH:** I need to be certain of the treatment I want before signing an advance medical directive.

**FACT:** Medical treatment near the end of life can be complicated and we cannot predict all the circumstances that may face us in the future. Your treatment wishes may change, but you can at least appoint a health care agent whom you trust.

**MYTH:** Advance medical directives are only for old people.

**FACT:** More older people have advance medical directives than younger ones. However, every adult should have one. Younger people have more at stake because medical technology can keep them alive but insentient for decades if stricken by an illness or accident.

In Georgia, the Advance Directive for Health Care replaced the Georgia Living Will and Durable Power of Attorney for Healthcare. This document combines the characteristics of both the living will and the durable power of attorney for healthcare and still allows people to choose for themselves the medical care they want when they are no longer able to communicate with their physicians or their family members. For additional information and resources, consult Georgia's Division of Aging Services' website at <http://aging.dhs.georgia.gov/>.

Too many people are receiving medical care they wouldn't choose, and their friends and family are the ones left feeling guilty and grief-ridden. It's time to begin discussing the kind of care we want and doesn't want for ourselves and to have these conversations with trusted loved ones around the kitchen table rather than in the Intensive Care Unit.

To make sure your wishes [as well as the wishes of your loved ones](#) are respected and expressed, read, complete and sign a Georgia Advance Directive for Health Care and encourage family members and friends to do the same. While a healthcare directive is a legal document all adults need, most adults need additional planning for incapacity and death. Consult with an attorney to discuss estate planning and any issues concerning advance medical directives. Together, we can make these difficult conversations easier.

*Attorney Melanie L. Marks is a partner with Bouhan Falligant specializing in estate planning, estate and trust administration, elder law, and real estate law. She can be reached at [mlmarks@bouhan.com](mailto:mlmarks@bouhan.com) or 912-644-5718.*

## Practice Areas

- Elder Law
- Estate Planning
- Real Estate Litigation

## Attorneys

- Melanie L. Marks