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LGBTQ+ Friendly End of Life Essentials

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LGBTQ+ Friendly End of Life Essentials



Advanced Directives and Why You Need One

Without someone else being chosen to handle end of life care decisions and funeral arrangements, these decisions go to the person's legal next of kin. Many people are not close with their next of kin, such as their parents, siblings, or children. Spouses are also legal next of kin. There are many reasons not to want your next of kin making these important decisions, one of which may be that you are not close with or do not trust that person.

For many transgender people, bad relationships with their families can mean violence and transphobia, even after death. Transgender people who may not have spoken to their family in years can suddenly be forced under the power of their next of kin when they cannot make

decisions for themselves. This can mean being misgendered, having hair cut or changed, clothes changed, and other funeral decisions made in direct opposition to the gender of the transgender person. This can be incredibly painful for the friends and chosen family of the transgender person, who have no legal power to make these decisions, despite knowing what their loved one wanted.

If you, whether you are transgender or not, do not want your legal next of kin being the one to make your funeral and end of life decisions, you need to create an advance directive.

Advance Directive Documents in New York State

In New York State, an Advance Directive consists of three documents.

- 1) A New York Living Will.
- 2) A HIPAA Release Form.
- 3) Physician (or Medical) Orders for Life Sustaining Treatment (POLST or MOLST).

A **living will** is a legal document dictating what treatment you do and do not want to keep you alive at the end of your life, as well as your wishes for your funeral. This can include burial or cremation wishes, whether you want CPR, tube feeding, ventilators, and any other treatment you wish to specify. This document also designates your health care proxy, or the person/people you want to make your health care decisions in the event you are unable to.

For a living will, you will need two witnesses who are not your designated health care proxy, and you should give a copy to your doctors, your lawyer, and your designated people. You can download a living will online.

A **HIPAA release form** is a form that allows your chosen people to receive your important health care information, something which is normally restricted only to next of kin or only to the person receiving care. A copy of your HIPAA release form should be given to your doctor, your health insurance, your lawyer, and your designated people.

POLSTS or MOLSTS, physician orders for life sustaining treatment, are doctor's orders confirming what care you do and do not want to receive at the end of your life. You can get this from your primary care physician or another doctor on your care team, and it needs a doctor's signature to be valid. Copies of POLSTS/MOLSTS should be given to your designated people, and any health care facilities you regularly receive care at.

Other Tips and Resources

- Make sure you've given copies of your advance directives to your doctors, lawyers, and chosen people. Having an advance directive will only help if people know you have it and have access to it.
- Keep your copies of your advance directive in a safe, accessible place.
- Make sure you speak to your chosen people, so they know you want them to make your decisions and arrangements and what you want, and to make sure they can do so.
- Put a card saying you have an advance directive in your wallet in case of emergency.
- Your POLST/MOLST should be clearly displayed wherever you live, especially if you live in a nursing home, hospice, or have home health care services.
- You can change your advance directive at any time!
- joincake.com is a great resource that can help you download forms, organize them in one easy to find place, and work with your loved ones to make sure everyone is prepared.

Questions and Answers

I'm not out. Can I still do this if I don't have the ability to tell my family?

Yes. Not being out to your family will not stop you from making an advance directive and choosing new people to help you make health care and funeral decisions. Your advance directive takes precedence to your family's wishes, so this is a good way to make sure people who you are not out to do not make these important decisions against your will.

How can I find legal advice if I don't have a lawyer already?

Estate planning attorneys specialize in health care and end of life planning in their legal practice. [The Legal Aid Society of Mid-New York](#) is a nonprofit that can offer low cost or free legal help with future and estate planning and services many counties in New York. To find other legal resources in more counties, or even different states, [Legal Services Corporation](#) allows you to enter your location to find help near you.

This is a lot of information. Can I have a summary?

An **advance directive** is a set of documents that can help you dictate your end-of-life and funeral wishes, as well as choose someone other than your next of kin to make these decisions for you and respect your wishes. These documents are a **living will, a HIPAA release form, and a POLST/MOLST.**

I am cisgender and straight, but I do not want my next of kin involved in my end of life and funeral planning. Does this advice still apply to me?

Yes! While this booklet was designed specifically with transgender people in mind, the advice and instructions are universal!

Background

This booklet is made by Natalie Witt (they/she), a student at SUNY Cortland, to create a resource for everyone who wants full control over their end of life care and funerary arrangements. If someone else is not designated, healthcare and funeral decisions are controlled by your next of kin. If you do not want your next of kin making these important decisions for you, you should have an Advance Directive. This can be an important step for LGBTQ+ people, especially people who identify as transgender. This booklet will explain how to create an Advance Directive in New York State.

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Tools for Protecting Your Wishes for Your Funeral.