



HB 1640/SB 5478: Ease burdens for patients

Help People Get the Care They Want at End of Life

Everyone deserves to have their wishes honored regarding what care they do or do not want at the end of their lives.

Advance directives are legal documents that let people express their future wishes for health care. Unfortunately, the current advance directive law creates barriers that make it hard to execute these documents; and only 25% of people have an advance directive. These important documents must be witnessed by two people to whom the patient is “personally known” and notaries are not allowed to fulfill the role of making the documents valid. Adding the option of a notary and allowing witnesses to verify a patient’s identity by looking at proof of identity would ease these burdens while maintaining important protections against fraud or abuse.

Advance directives allow patients to thoughtfully and legally express end of life health care wishes

Health providers assume patients want all available medical treatment unless the patient directs otherwise. Advance directives can help direct these decisions. These documents allow loved ones and health care providers to honor the patient’s wishes. To be enforceable, two witnesses must sign the document, attesting that they “personally know” the patient executing the advance directive.

Witness requirements for advance directives need to be improved to reduce barriers

Washington law requires an advance directive to be witnessed by two people in order to protect against improper or fraudulent documents. There are several other limitations on the witnesses as well, including a restriction on health care providers serving as witnesses. These limits are important safeguards against abuse. However, the fact that the witness must also “personally know” the patient can burden the patient trying to get the document executed. Also, unlike other legal documents, the advance directive cannot be notarized as an alternative to witnesses.

Adding a notary reduces barriers and aligns with existing law for other health care documents

Unlike the durable power of attorney for health care, a legal method to appoint a health care decision maker, the advance



Patients should be able to use advance directives to express end of life wishes.

directive cannot be acknowledged by a Washington State notary. A notary is a person authorized under law to perform certain legal duties, including service as a formal witness to legal documents. The advance directive law should be amended to allow a notary as an alternative to the two witnesses.

Allowing a patient to provide proof of identity reduces burdens, while maintaining legal protections

Each witness must state that the patient executing the advance directive is “personally known” to the witness. Because witnesses must also meet several other standards, it can be challenging for a patient to find witnesses who meet this standard. Allowing witnesses to verify a patient’s identity by checking a driver’s license or passport allows for an alternative way to verify identity, while maintaining important safeguards.

WSHA position

WSHA strongly supports assisting people in executing advance directives by adding a notary option and allowing witnesses to verify the identity of the patient executing the advance directive.