

WHAT IS A HEALTH CARE POWER OF ATTORNEY?

A Health Care Power of Attorney is a document in which you give instructions about your health care if, at the time, you were unable. An Agent can be appointed to have the power to make health care decisions for you. Under a Power of Attorney you can give instructions about the kind of health care you do or do not want.

In a traditional Living Will, you state your wishes about life-sustaining medical treatments if you are terminally ill. In a Health Care Power of Attorney, you appoint someone else to make medical treatment decisions for you if you cannot make them for yourself.

WHY IS IT USEFUL?

Unlike Living Wills, a Health Care Power Of Attorney is not limited to cases of terminal illness. If you cannot make or communicate decisions because of a temporary or permanent illness or injury, a Health Care Power Of Attorney helps you keep control over health care decisions that are important to you. In your Health Care Power Of Attorney you state your wishes about any aspect of your health care, including decisions about life-sustaining treatment, and choose a person to make and communicate these decisions for you.

Unfortunately, as we've recently seen in the news, medical emergencies don't just occur to older adults. Barring a legal document no one has authority to make medical decisions over another adult. Therefore, anyone over the age of eighteen (18) should consider a Health Care Power Of Attorney.

At the time a decision needs to be made, your Agent can participate in discussions and weigh the pros and cons of treatment decisions based on your wishes and previous directions. Your Agent can decide for you whenever you cannot decide for yourself, even if your decision-making ability is only temporarily affected.

Absent an Agent, a court may have to appoint a guardian.

WHAT DOES A HEALTH CARE POWER OF ATTORNEY ACCOMPLISH?

The most important part of the document is the appointment of someone (your Agent) to make health care decisions for you if you cannot decide for yourself. You can define how much or how little authority you want your Agent to have. You also can name persons to act as alternate Agents if your primary Agent cannot act for you.

Further, you can provide specific instructions about your health care treatment. You also can include a statement about donating your organs. Illinois law provides for three treatment choices: 1) Provide Agents broad discretion; 2) Allow termination of life support if there is persistent vegetative state or permanent coma; and 3) Use heroic methods to prolong my life.

HOW DO I MAKE A HEALTH CARE POWER OF ATTORNEY?

The process for creating a Health Care Power Of Attorney is relatively simple. Illinois law provides a basic form that can and should be modified to meet specific circumstances.

Illinois requires a witness who is not the Agent.

IF I CHANGE MY MIND, CAN I CANCEL OR CHANGE A HEALTH CARE POWER OF ATTORNEY?

Yes, you can revoke or cancel your Health Care Power Of Attorney by telling your Agent or health care provider in writing of your decision to do so. Destroying all copies of the old one and creating a new one is the best way. Make sure you give a copy of the new one to your physician and anyone else who received the old one.

WHAT DO I NEED TO CONSIDER BEFORE MAKING A HEALTH CARE POWER OF ATTORNEY?

There are at least four important questions to ask yourself:

First – What Are My Goals for Medical Treatment? While it is impossible to anticipate all of the different medical decisions that may come up, you can make your preferences clear by stating your goals for medical treatment. What do you want treatment to accomplish? Is it enough that treatment could prolong your life, whatever your quality of life? Or, if life-sustaining treatment could not restore consciousness or your ability to communicate with family members or friends, would you rather stop treatment?

In formulating your goals of treatment, it is often helpful to consider your wishes about different end-of-life treatments and then ask yourself why do you feel that way. If you would not want to be kept alive by a ventilator, what is it about being on a ventilator that troubles you? Is it the loss of mobility, the lack of independence, or some other factor? Would it matter if you needed a ventilator for only a few days rather than many months? The answers to these kinds of questions will reflect important values that you hold and that will help you shape your goals of treatment.

Second – Who Should Be My Agent? Choosing your Agent is the most important part of this process. Your Agent will have great power over your health and personal care if you cannot make your own decisions. Normally, no one oversees or monitors your Agent's decisions.

Illinois law does not allow co-agents so as to prevent disagreements. However, you should appoint at least one alternate Agent in case your Primary Agent is not available.

It is recommended that you speak to the Agent you wish to appoint beforehand to explain your desires. Confirm their willingness to act for you and their understanding of your wishes.

Third – How Specific Should I Be? If you have specific wishes or preferences, it is important to spell them out in the document itself. Also, discuss them with your Agent and health care providers. These discussions will help ensure that your wishes, values and preferences will be respected. Make sure to think about your wishes about artificial feeding (nutrition and hydration), since people sometimes have very different views on this topic.

At the same time, be aware that you cannot cover all the bases. It is impossible to predict all the circumstances you may face.

Fourth – How Can I Make Sure That Health Care Providers Will Follow My Advance Directive?

Illinois law requires that a valid Health Care Power Of Attorney be enforced and protects third parties (doctors) from liability if acting in good faith.

Once you sign a Health Care Advance Directive, be sure to give a copy of it to your doctor and to your Agent, close relatives, and anyone else who may be involved in your care. We often recommend keeping a copy with you if traveling.

WHEN IS A LIVING WILL PREFERRED?

A Living Will is feasible if you do not have anyone that you are comfortable appointing as Agent. The Living Will is your expression of your desire for treatment if, and only if, you suffer a terminal illness. A terminal illness is one in which death is imminent except for death delaying procedures. It also can be revoked or cancelled.

A Living Will is limited in scope, however. It only covers three situations: If you're in a coma, if you're in a persistent vegetative state, or if you're close to death. The Living Will doesn't cover whether or not to operate, or start dialysis, or numerous other medical issues.

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