

What You Should Know about Health Care Powers of Attorney

Q.: What is a health care power of attorney?

A.: A health care power of attorney (or "durable power of attorney for health care," sometimes known as a "DPOA") is a legal document that authorizes another person to make health care decisions for you if you cannot make them for yourself. A health care power of attorney:

- * names an individual you trust to make a wide variety of health care decisions for you at any time you cannot do so for yourself, whether or not your condition is terminal;
- * becomes effective only when you cannot make your own decisions regarding treatment;
- * requires the person you appoint to make decisions that are consistent with your wishes; and
- * will not overrule a living will if you have both documents.

Q.: If I have a living will, do I need a durable power of attorney for health care too?

A.: Many people will want to have both documents because a living will applies in only limited end-of-life circumstances, whereas a health care power of attorney covers all other situations concerning your medical care whenever you cannot make health care decisions for yourself.

If you have a health care power of attorney, you may save your family or friends the time and trouble of having to go to court to be appointed your legal guardian in order to make health care decisions on your behalf. Guardianship is a process that takes time, can be costly, and makes your health care status a public, rather than a private, matter.

Q.: My mother is in a nursing home. If she gave me her durable power of attorney for health care, could I act on her behalf in every area affecting her treatment?

A.: Yes, but not until she is no longer able to make those decisions on her own behalf. A health care power of attorney covers not just life-sustaining treatment, but all aspects of medical treatment whenever the patient is unable to express his or her own wishes. A financial power of attorney over a relative's business affairs does not apply to medical situations. You need a special durable power of attorney for health care.

Q.: If I want to designate someone to make health care decisions for me, must it be a member of my family?

A.: No. You may appoint any adult you wish as long as it is not your doctor or the administrator of a health care facility in which you are being treated, or any person employed by either your doctor or a health care facility in which you are being treated.

Q.: I spend the winter months in another state. Does this affect the provisions in my health care power of attorney and my living will?

A.: Each state honors the wishes expressed in your health care power of attorney and living will to the extent that state's law allows. An attorney can advise you about any differences in the laws of the other state.

Q.: Where can I find the standard forms for a health care power of attorney? Can I draw up my own?

A.: The Ohio State Bar Association has developed a standard health care power of attorney form with the Ohio Hospice & Palliative Care Organization, the Ohio State Medical Association, and the Ohio Hospital Association. To obtain a copy of the health care power of attorney form and other "advance directive" forms (living will and organ donation form) mail your request along with \$3 to the Ohio Hospice & Palliative Care Organization at 555 Metro Place N, Suite 650, Dublin, Ohio 43017, or by visiting that organization's Web site at www.ohpco.org. Though you do not have to use the standard form, your document must include specific language spelled out in the Ohio Revised Code to be valid.

Q.: What do I do after I fill out a health care power of attorney form?

A.: Make several copies. Give one to a trusted member of your family. Keep

another with your personal papers. Leave copies with your physician and your lawyer, and, perhaps, your clergy person. If you are admitted to a hospital or nursing home, make a copy available to the healthcare providers and ask that a copy be placed in your medical chart.

5/8/2006

Law You Can Use is a weekly consumer legal information column provided by the Ohio State Bar Association.

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